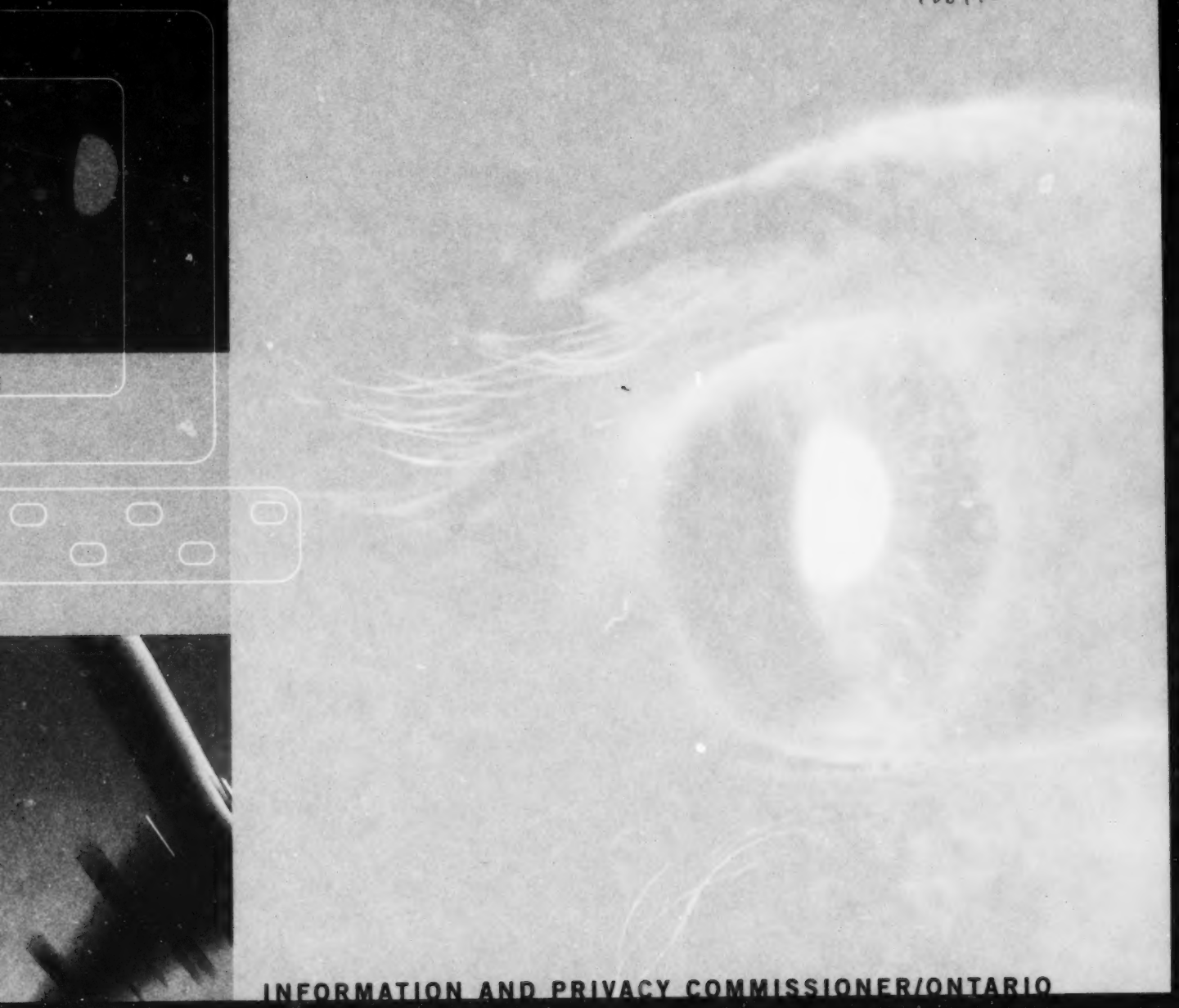


INFORMATION AND PRIVACY COMMISSIONER/ONTARIO

THE PURPOSES OF THE *ACTS*

The purposes of the ***Freedom of Information and Protection of Privacy Act*** and the ***Municipal Freedom of Information and Protection of Privacy Act*** are:

a) To provide a right of access to information under the control of government organizations in accordance with the following principles:

- information should be available to the public;
- exemptions to the right of access should be limited and specific;
- decisions on the disclosure of government information may be reviewed by the Information and Privacy Commissioner.

b) To protect personal information held by government organizations and to provide individuals with a right of access to their own personal information.

103-06655/

Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

June 11, 2003

The Honourable Gary Carr
Speaker of the Legislative Assembly

I have the honour to present the 2002 annual report of the Information and Privacy Commissioner/Ontario to the Legislative Assembly.

This report covers the period from January 1, 2002 to December 31, 2002.

Sincerely yours,

Ann Cavoukian, Ph.D.
Commissioner

80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Téléc: 416-325-9195
TTY: 416-325-7539
http://www.ipc.on.ca

TABLE OF CONTENTS

COMMISSIONER'S MESSAGE
AN OVERVIEW 1

ROLE AND MANDATE 4

KEY ISSUES
OPEN MEETINGS 5
PRIVACY-ENHANCING TECHNOLOGIES AND THEIR DEPLOYMENT IN GOVERNMENT 7
AVOIDING AND CONTAINING PRIVACY BREACHES 8
ELECTRONIC RECORDS AND DOCUMENT MANAGEMENT SYSTEMS: A NEW TOOL 10
PRIVACY MISCONCEPTIONS THAT NEED TO BE EXPOSED 12
FOI AND THE MEDIA: INFORMING THE PUBLIC AND PROMOTING DEBATE 13

COMMISSIONER'S RECOMMENDATIONS
THE COMMISSIONER'S CONCLUSIONS AND RECOMMENDATIONS 15

WORKING TOGETHER
WORKING WITH GOVERNMENT ORGANIZATIONS TO RESOLVE ISSUES 16

REQUESTS BY THE PUBLIC
2002 ACCESS REQUESTS 18

RESPONSE RATE COMPLIANCE 21

ACCESS
APPEALS RELATED TO GENERAL INFORMATION REQUESTS 28

PRIVACY
COMPLAINTS 32
PERSONAL INFORMATION APPEALS 32

HIGH PROFILE PRIVACY INCIDENTS 38

JUDICIAL REVIEWS:
RULINGS DURING 2002 40

INFORMATION ABOUT THE IPC:
OUTREACH PROGRAM 42
PUBLICATIONS 45
WEB SITE 46
MONITORING LEGISLATION AND PROGRAMS 47
ORGANIZATIONAL CHART 48
FINANCIAL STATEMENT 49
APPENDIX 1 50

COMMISSIONER'S MESSAGE

2002 was a watershed year in many ways for the principles and realities of access and privacy. Major world events resulted in governments across Canada and around the world clamping down on individual rights in the name of security and anti-terrorism efforts.

The introduction of a number of programs and legislation by our federal government, such as the *Anti-terrorism Act*, the measures contained in Bill C-17, *Public Safety Act*, changes to the *Customs Act* to implement a new Advance Passenger Information/Passenger Name Record program, and the debate over implementing the Cybercrime Treaty and related "Lawful Access" provisions, are clear assaults upon the privacy rights of Canadians.

Governments throughout the world also demonstrated an increased resistance to providing open access to files. Again, this clampdown was made under the guise of security protection.

One of the key challenges for all governments in these turbulent times is the delicate balance of showing leadership on real issues of national importance while avoiding invoking major policies or initiatives without due consideration of the long term impact of these changes.

Business, on the other hand, made great strides in 2002 towards establishing the policies and systems needed to protect the privacy of its customers and suppliers. Much of this was done to ready itself for the implementation of private sector privacy laws – but also simply because good privacy = good business.

On January 1, 2004, a federal law, the *Personal Information Protection and Electronic Documents Act*, will come into force – covering all private sector commercial enterprises in provinces that have not brought in comparable legislation. Unfortunately, Ontario, which had worked so hard on developing its own private sector and health sector privacy legislation, has yet to introduce a Bill. Enacting such a law was the #1 recommendation I gave to the government last year and remains the top privacy issue in the province.

Ann Cavoukian, Ph.D.
Information and Privacy Commissioner

The federal law, while laudable, falls far short of what was included in the draft Ontario privacy legislation. Of particular concern to me is that without provincial legislation, Ontario citizens will be left without any comprehensive health privacy protection. The government has said that it remains committed to introducing such a law. Time will tell.

SUCCESSES AND CHALLENGES

The good news is that we have the framework to move private/health sector privacy legislation forward. *The Privacy of Personal Information Act,* developed by the Ministry of Consumer and Business Services (MCBS), is ready to go. MCBS did an excellent job in consulting extensively with stakeholders and resolving many of the key issues raised by businesses, health care practitioners and other organizations – there is now clear public support for the legislation. We need a made-in-Ontario law that takes into account the particular needs of provincial organizations.

I was disappointed that the Ontario government did not implement my recommendation to appoint a senior public servant as chief privacy officer (CPO). The position of CPO, which has become commonplace in the business community,

would help ensure that government programs and services are designed and delivered in a manner that both protects and enhances the privacy of Ontarians.

Last year, we also called upon the government to initiate a public consultation process to identify how Ontario's access and privacy legislation can be amended to properly deal with the treatment of personal information in electronic format in public registries. The government undertook a focused review of the public registries under its direct control, but there is still a need for leadership to address the privacy issues raised by the growing number of electronically available registries in the provincial, municipal, broader public and self-regulated sectors. This complex issue will not simply go away. I am certain that solutions can be found, but the government needs to give the issue careful and focused attention.

In my 2001 report, I recommended that any organization covered by the *Acts* that is considering installing a video surveillance camera in a public place should first meet with my office to discuss the privacy issues. I'm pleased to report that we have worked with a number of municipalities over the past year to ensure that their video surveillance programs operate in a manner that meets their public safety and law enforcement needs while still complying with our *Guidelines for Using Video Surveillance Cameras in Public Places*.

Over the past year, we have seen a recognition by various branches of the Ontario government that privacy-enhancing technologies (PETs) should play a role in the design process for new projects or systems. However, to date, the government has not translated this acceptance into action. I believe this is a critical and logical step to ensure that the rights and privacy of citizens are protected in an increasingly electronic world. (See *Key Issues*)

I also believe that technology has real and practical applications in furthering the goal of open government. Information management systems that cannot retrieve and disseminate information in a timely fashion are a barrier to accessibility and accountability. The government has recognized that privacy design principles play an important role in ensuring that information technology systems are built in a manner that is privacy protective. There is no reason why the same theory should not apply to access. I am calling on the government to show leadership by developing access design principles to ensure that the introduction of new technologies facilitates routine disclosure and active dissemination of government-held information.

Overall, the province also needs to do a better job with its records management systems. An effective electronic records and document management system would dramatically improve the ability to locate government records while better ensuring that individual privacy is protected. The tools are available to protect privacy and facilitate the sorting, collection and access to data. Given that the government is committed to moving more and more services on-line, it is critical that these technologies be part of the system design – not an afterthought or expensive retrofit once the damage has already been done. (See *Key Issues*)

I also believe the time has come for the Ontario government to introduce comprehensive open meetings legislation. Throughout the United States, open records laws (like our *Acts*) and open meetings laws are seen as complementary components of the broad system of public accountability. The same theory should apply in Ontario. We need a comprehensive legislative framework that will ensure proper notice, a right to complain, an efficient and accessible oversight body to investigate complaints and resolve disputes, and remedies and penalties if the law has been breached. (See *Key Issues)*

I'm pleased to report that the provincial government has accepted our recommendation to implement a Human Resources Plan for the freedom of information and privacy protection community. Much progress was made during 2002 in addressing recruitment, retention and training needs for Co-ordinators and other FOI program staff. The goal of this exercise is to ensure that staff working in this important field are recognized for their skills and expertise, and that the Ontario Public Service as a whole has the human resource capacity to deal with retirements and vacancies as they arise, without compromising continuous quality service delivery in compliance with the legislation

During the past year, we also worked with a broad array of government organizations – from ministries to school boards to police services – on a number of special joint projects, including developing best practices, guidelines and training. In particular, I am pleased with the work we have done with policing agencies across the province to strengthen awareness and commitment to privacy and access principles.

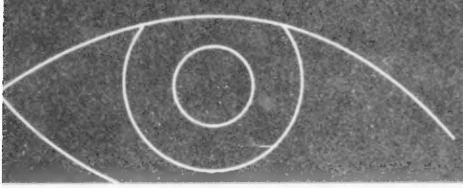
In spite of these challenging times, for the fourth year in a row, provincial institutions have improved their response rates in addressing FOI requests. In 2002, 57.8 per cent of the requests to provincial organizations were answered within 30 days, up from 55.6 per cent in 2001 and only 42 per cent in 1998. And if two of the larger ministries, which have their own particular issues, are excluded from the calculation, the 2002 figure increases to an impressive 82.4 per cent.

Again this year, the 30-day compliance rate for municipal requests is higher than the provincial sector, but the 75.9 per cent overall figure continues the downward trend since 1999, when the response rate was 85 per cent. Much of this decline can be attributed to one particular police service, which saw its numbers drop nearly 20 per cent last year. If this institution is excluded, the compliance rate increases to 84.2 per cent, which is highly impressive.

PERSONAL THANKS

I would like to sincerely thank the staff of my office. With the increasing demands and expectations placed on this office, I am so fortunate to have such talented and dedicated colleagues. Each one takes our mandate extremely seriously and works diligently on behalf of everyone in this province. I am grateful for their professionalism and I am proud to have the opportunity to work with them in support of open government and the protection of privacy. My heartfelt thanks to you all!

ROLE AND MANDATE



Ontario's Freedom of Information and Protection of Privacy Act, which came into effect on January 1, 1988, established an Information and Privacy Commissioner as an officer of the Legislature to provide an independent review of the decisions and practices of government organizations concerning access and privacy. The Commissioner is appointed by and reports to the Legislative Assembly of Ontario. The Commissioner is independent of the government of the day in order to ensure impartiality.

The Municipal Freedom of Information and Protection of Privacy Act, which came into effect January 1, 1991, broadened the number of public institutions covered by Ontario's access and privacy legislation.

The Information and Privacy Commissioner (IPC) plays a crucial role under the two *Acts*. Together, the *Acts* establish a system for public access to government information, with limited exemptions, and for protecting personal information held by government organizations at the provincial or municipal level.

The provincial *Act* applies to all provincial ministries and most provincial agencies, boards and commissions; colleges of applied arts and technology; and district health councils. The municipal *Act* covers local government organizations, such as municipalities; police, library, health and school boards; public utilities; and transit commissions.

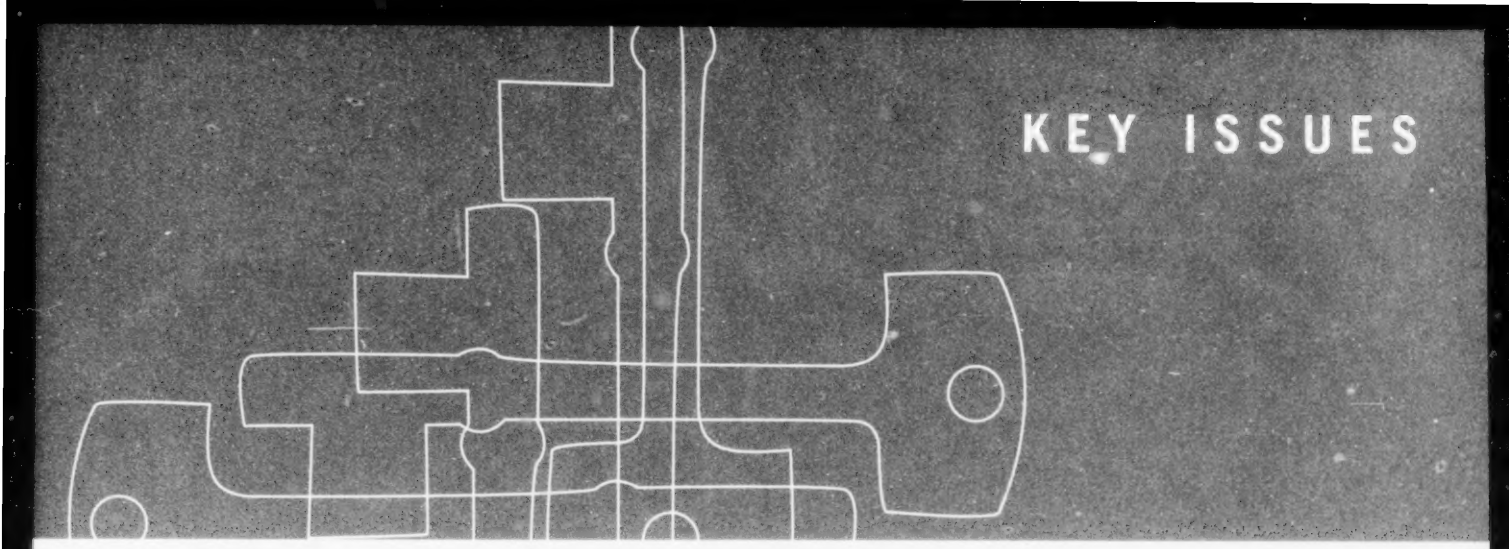
Freedom of information refers to public access to general records relating to the activities of government, ranging from administration and operations to legislation and policy. The underlying objective is open government and holding elected and appointed officials accountable to the people they serve.

Privacy protection, on the other hand, refers to the safeguarding of personal information – that is, data about individuals held by government organizations. The *Acts* establish rules about how government organizations may collect and disclose personal data. In addition, individuals have a right to see their own personal information and are entitled to have it corrected if necessary.

The mandate of the IPC is to provide an independent review of government decisions and practices concerning access and privacy. To safeguard the rights established under the *Acts*, the IPC has five key roles:

- resolving appeals when government organizations refuse to grant access to information;
- investigating privacy complaints about government held information;
- ensuring that government organizations comply with the *Acts*;
- conducting research on access and privacy issues and providing advice on proposed government legislation and programs; and
- educating the public about Ontario's access and privacy laws, and access and privacy issues.

In accordance with the legislation, the Commissioner has delegated some of the decision-making powers to various staff. Thus, the Assistant Commissioner and selected staff were given the authority to assist her by issuing orders, resolving appeals and investigating privacy complaints. Under the authority of the Commissioner, government practices were reviewed, one indirect collection of personal information was approved and two proposed inter-ministry computer matches were commented on.



KEY ISSUES

OPEN MEETINGS

As society evolves in our modern democracy, the public's demand for accountability from its governments keeps increasing. A "trust me" approach to public administration becomes less and less acceptable, and people expect and demand greater levels of transparency in the decision-making processes of government.

Every once in a while, these demands crystallize around a particular element of public accountability and governments take concrete action. In Ontario, we saw that happen in the 1980s, when our provincial government decided it was time to codify the right of access to government-held records. And there really is no ambiguity about why the *Freedom of Information and Protection of Privacy Act* was introduced and passed into law: it was seen as a necessary and important component of our system of public accountability. As then-Attorney General Ian Scott said in introducing the new law:

> *When there is true openness in government, we will have a society that is trustful of its government, not fearful of it. We will have a society that is enlightened by information and able to make thoughtful choices as to the future shape of our society.*

That was a defining moment in the evolution of our society, and with 15 years of experience under our belts, we can all see how important the law has been in improving transparency and encouraging integrity in our governments.

But FOI is not the only component of the accountability framework. People also expect that governments will make decisions in an open and transparent forum. Our Legislative Assembly does not and cannot meet in private. And at the municipal level, public bodies are required by law – with limited exceptions – to conduct their business at open meetings where the public can attend and observe the debate on the issues of the day.

However, any system of accountability requires both rules and a process for enforcing them. The *Municipal Act* establishes a series of rules regarding the conduct of official business by municipal governments. They target the policy objective of open and transparent decision-making, but we have some concerns that they may not go far enough in addressing public expectations.

In the United States, open meetings laws and FOI laws are often seen as complementary components of the broader system of public accountability. In Connecticut, for example, regulations governing open meetings and open records are both included in the same legislation, the *Freedom of Information Act*. Colleen Murphy, managing director of the Connecticut Freedom of Information Commission – which oversees the law – feels strongly that both components are necessary in order to ensure open government: "The two elements of our law are both designed to shed light on the operations of government, and we're not unique. Throughout the United States, citizens take it for granted that they will have a right of access to records, and also an ability to ensure that government decisions are made in the open at meetings that are accessible to the public."

And what would an open meetings law look like?

We don't have the answer to that, but we have given some thought about what elements an open meetings law should have in order to be comprehensive and effective.

It must:

- impose obligations on public bodies to ensure that meetings are open to the public and that people are given proper and adequate advance notice;
- provide members of the public with a right to complain if they feel that open meeting rules have not been followed;
- establish an efficient and accessible oversight body that can investigate complaints and resolve disputes; and
- provide remedies and penalties if the law has been breached.

And we don't have to start from scratch. The *Municipal Act*, to some extent, already deals with notice requirements for meetings, and existing U.S. legislation can help identify how these provisions can be enhanced and expanded. The *Public Proceedings and Records Act* of the State of Hawaii, for example, provides that no meeting can be held without written public notice, including an agenda of items to be discussed at the meeting, at least six days before the meeting. If the notice period is not complied with, the meeting must be cancelled, and the agenda of a properly constituted meeting cannot be amended to include a new item of major importance unless the meeting is postponed in order to re-notify the public.

And what constitutes a "meeting?" This issue is not a new one. Municipalities and other public bodies have grappled over the years with defining various types of meetings, and the courts have even been involved at times in providing direction on this issue. But the traditional concept of a meeting, where a group of people get together in person at the same time in a room to debate an issue may no longer be adequate. Changes in technology have transformed traditional communications methods, and it's important that issues raised in this context are filtered through the open meetings policy framework. Is it possible for a municipality to hold an open meeting through teleconference or videoconference? What about an exchange of e-mail messages, or a debate in an Internet chat room? How does voice mail fit into the mix?

It is also important to ensure that an open meetings law covers all appropriate public bodies. Municipal corporations covered by the *Municipal Act* would clearly be covered, but there are many other public bodies operating at the municipal level that hold public meetings. We would argue that institutions covered by the *Municipal Freedom of Information and Protection of Privacy Act* provide an appropriate precedent for defining the scope of any new open meetings law.

And what about provincial bodies? In the U.S., most open meetings laws apply to both state and local governments. It may be worth considering whether an open meetings law in Ontario should apply not only to municipal governments but also to provincial agencies, boards and commissions.

One of the most significant deficiencies in the current open meetings scheme is the lack of efficient and accessible oversight. What does someone do if he feels that there was insufficient notice of a meeting, or that the public body dealt with important issues that were not included on a posted agenda? Who can someone complain to if she believes a matter dealt with at an *in camera* meeting should have been discussed in public? A lengthy and costly court process is clearly not the answer. Complaints must be dealt with quickly and there must be a dispute-resolution process that is flexible and accessible to everyone. In U.S. jurisdictions that have a Freedom of Information Commission, that body is given oversight responsibility for both FOI and open meetings laws. That's a model that may make sense here in Ontario as well.

And finally, any open meetings scheme must have teeth. If there has been a breach of the rules, as determined by the oversight body, there has to be a remedy or series of optional remedies available to address the problem. In Connecticut, if the Freedom of Information Commission determines that a meeting has been held without proper notice, it has the discretion to declare any or all actions taken at the meeting to be null and void. But, as Colleen Murphy points out: "A null and void finding is not the norm. Our approach is to encourage proper practices through education, and penalizing public bodies is generally reserved for the relatively few egregious situations we encounter."

The time has come for Ontario to give focused attention to the open meetings component of our public accountability system. We need comprehensive legislation that builds on our own past practices, while at the same time looking to the experience of other jurisdictions that have already made the move to a dedicated open meetings law. The public is demanding that governments be more open and transparent, and an enhanced open meetings scheme is an ideal vehicle for addressing this expectation.

PRIVACY-ENHANCING TECHNOLOGIES AND THEIR DEPLOYMENT IN GOVERNMENT

The IPC has challenged various branches of the Ontario government to introduce privacy-enhancing technologies (PETs) into pilot projects or new initiatives. While staff and senior executives have provided a sympathetic ear, it is difficult to point to any real progress.

Granted, the province has embarked on undertaking *privacy impact assessments* for new technology initiatives. And many of these assessments are first rate and comprehensive – analyzing the vulnerabilities and risks in the collection and management of personal information.

A number of projects shared with the IPC have introduced design elements into the program architecture that have attempted to address certain privacy vulnerabilities. However, from the IPC's perspective, far more can be done when it comes to designing privacy into the architecture.

The term privacy-enhancing technologies gained credence following the release in 1995 of *Privacy-Enhancing Technologies: The Path to Anonymity*, a paper jointly authored by the IPC and the Dutch Data Protection Commission. Since then, the focus of PETs development has been primarily on Internet and personal tools. However, that is changing. A recent analysis by the OECD – the Organisation for Economic Development and Co-operation – contained a description of PET functionalities and analyzed more than 80 PETs.

Among these were technologies that focused on more than just ways to surf the Web anonymously, encrypt e-mail or provide protections against privacy invasions, from cookies to Web bugs. The International Workshop on Privacy Enhancing Technologies, the undisputed focus of the world's leading researchers and academics in the field of PETs, accepted two papers for its April 2002 conference that focused on Enterprise Privacy Practices and Privacy Enhancing Service Architectures (http://petworkshop.org).

It is no longer accurate to say that enterprise-wide privacy products and solutions do not exist. First, many of the projects and systems-development work undertaken by the government do not use off-the-shelf products in a plug and play mode. Instead, a combination of core products, often customized, with many lines of custom code, are brought together in a solution. In other situations, projects start with a business case and business requirements cycle that lead to countless programmers developing code.

This provides an excellent opportunity to design privacy directly into the system, starting at the *request for proposal* (RFP) stage. Many of the RFPs issued by government organizations would benefit from clearer privacy requirements. This step alone will push vendors to ramp up their capabilities to design privacy protections right into a system. The requirement for a privacy architect, however, as basic as requiring a security architect, is still missing in most, if not all, RFPs. We await much-needed changes in this area.

AVOIDING AND CONTAINING PRIVACY BREACHES

All government institutions – from municipalities to school boards to police services to ministries – deal with a large volume of information on a daily basis. Some of this is personal information. A privacy breach occurs if personal information is collected, used, disclosed or disposed of in a manner that is contrary to the privacy provisions of the *Acts*.

Despite what can be sincere efforts by institutions to safeguard personal information, privacy breaches do occur. The IPC is committed to working with institutions to promote practices that advance the protection of personal information by reducing the opportunities for breaches – and containing any that do occur.

What are some examples of privacy breaches? The personal information of one individual included with other material in an envelope sent to someone else; files with personal information are left behind when a move is made; the personal information of students that ends up blowing in a street when it is put out in a garbage bag, rather than being shredded. Any of these situations would be instances of privacy breaches, and could be the subject of a privacy investigation by the IPC.

Often, breaches occur when an institution has failed to ensure that proper measures are in place to protect personal information. The situation can quickly grow worse if the institution does not have an action plan in place to deal with a privacy breach.

AVOIDING PRIVACY BREACHES

There are several ways that institutions can be proactive, including by developing written policies and procedures that incorporate privacy protection into the institution's every-day work. For instance, institutions that regularly send or receive personal information should have written policies and procedures setting out proper protocols for dealing with mail, e-mail and faxes.

Some key elements of policies that are privacy protective include: limiting the disclosure of personal information to those that need to know; limiting the use of the personal information to the purposes for which the information was obtained or compiled, or for a consistent purpose; and taking reasonable steps to protect the security and confidentiality of personal information that is to be destroyed, including protection during its storage, transportation, handling and secure destruction.

Written policies or procedures are important both in codifying proper privacy protection practices and in serving as an educational tool for staff. Whenever possible, it is useful to augment written policies with staff training sessions that promote understanding of the policies and allow for questions and discussion about the *Acts*. As well, there should be a privacy component included in all orientation programs for new staff.

Another proactive step that institutions can take is to ensure that privacy is a consideration whenever there are substantive changes made to institutional structures. Wherever new technologies, information systems, programs, or policies are introduced, the institution should conduct a *privacy impact assessment* (PIA). Management Board Secretariat's PIA is available on its Web site (http://www.gov.on.ca/MBS/english/FIP/PIA/).

DEALING WITH A PRIVACY BREACH

It is also crucial that institutions have procedures in place that address what staff should do in case a privacy breach does occur. In these situations, institutions should take several immediate steps in rapid succession in order to minimize the adverse effects of any breach.

The first step is for the institution to identify the scope of the breach, and then make its best efforts to contain it. For instance, if the breach arose as a result of a letter containing personal information being sent to the wrong person, staff should attempt to contact the recipient and retrieve the documents containing the personal information sent in error. If this is not possible, at a minimum, staff should confirm that the document has been destroyed.

In other situations, the appropriate action would vary depending on the nature of the breach. For instance, if the privacy breach involved an unauthorized user gaining access to an electronic database, the institution should take steps to ensure that access is no longer possible. Depending on the situation, the appropriate action may be to either change system passwords, or to temporarily shut down the system.

In addition, individuals whose personal information has been compromised should be notified as soon as possible that a breach has taken place. They should be advised of the nature of the personal information and the scope of the breach, as well as the action being taken to rectify the situation.

Upon learning of the breach, the institution should also notify the other people who need to be advised. This would include the IPC, the institution's head or delegate, and its Freedom of Information and Privacy Co-ordinator.

The institution should then conduct an internal review into the matter, often in conjunction with an IPC investigation. The objectives of the internal review are to:

- ensure that the immediate requirements concerning containment and notification have been addressed;
- review the circumstances surrounding the breach; and
- review the adequacy of existing policies and procedures in protecting personal information. After the review is complete, the institution should advise the IPC of its findings and work with the IPC to make any necessary changes.

GUIDELINES: STEPS TO TAKE

Recently, the IPC published a paper that offers practical guidelines on how to contain a privacy breach. The paper, *Guidelines: Steps to Take if a Privacy Breach Occurs*, is available on the IPC Web site (www.ipc.on.ca).

The IPC has issued a number of other publications that promote practices that are protective of personal privacy. These are also available on the IPC's Web site, or in hardcopy, on request. Among these are:

- *Guidelines on Fax Transmission Security;*
- *Guidelines for Using Video Surveillance Cameras in Public Places;*
- *Guidelines for Protecting the Privacy and Confidentiality of Personal Information When Working Outside the Office;*
- *Moving Information: Privacy & Security Guidelines;*
- *Tips on Protecting Privacy;* and
- *Safe and Secure Disposal Procedures for Municipal Institutions.*

ELECTRONIC RECORDS AND DOCUMENT MANAGEMENT SYSTEMS: A NEW TOOL FOR ENHANCING ACCESS AND PRIVACY

Good records management is an essential pillar that supports the public's access and privacy rights under the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act* (the *Acts*). An individual cannot access a record unless it can be found. Moreover, if records are well organized and easy to retrieve, government organizations can more easily comply with the 30-day timeline in the *Acts* for responding to access requests.

A privacy-protective records management scheme promotes compliance with the collection, retention, use, disclosure and disposal requirements of the *Acts* and their accompanying regulations for records that contain personal information. It ensures that only those staff members that need a record for the performance of their duties shall have access to it, and that reasonable security measures are put in to protect personal information from misuse or inappropriate disclosure.

Unfortunately, records management in both provincial and municipal institutions in Ontario has suffered during the past decade. There has been a downsizing of records management staff, which means that record-keeping responsibilities now fall more heavily on individual public servants. In addition, records management systems have not kept pace with the shift from paper to electronic records. Although government organizations continue to print and maintain paper documents as "official records," the vast majority of records are now created and stored electronically.

During the past few years, governments in some jurisdictions have attempted to modernize their record-keeping practices by implementing electronic records and document management systems (ERDMSs). In Ontario, Management Board Secretariat's Office of the Corporate Chief Technology Officer (OCCTO) and the Archives of Ontario have developed a proposed "enterprise records/document management solution." This solution, which sets out a framework for records and document management in the provincial government, would be made up of two components:

- Individual records and document management systems implemented at ministry and program levels; and
- A single government-wide search engine that would allow public servants to access "metadata" about records and documents across government.

WHAT IS AN ERDMS?

An ERDMS is a tool that enables an organization to efficiently manage all records and documents that are created and maintained in both electronic and hardcopy format. It may be server or Web-based and capable of managing numerous records, including word processing documents, databases, spreadsheets, e-mail messages and Web pages.

The potential role that ERDMSs can play in enhancing access and privacy rights is striking a chord in a growing number of jurisdictions. For example, in its 2002 Report to the New York Governor and State Legislature, the Committee on Open Government recommended that the state government design electronic information systems in a manner that maximizes access while concurrently protecting privacy.

The Archives of Ontario has also published a draft paper, *Records/Document Management Systems (R/DMS) Standard – Technical Specifications*, that defines the requirements for ministry and program-level records and document management systems. The Archives and OCCTO have integrated access and privacy principles from the provincial *Act* into both the proposed enterprise records/document management solution and the standard that supports the solution.

Few provincial or municipal institutions have implemented full-fledged ERDMSs that encompass both records and document management requirements. However, some institutions are putting in place interim solutions that demonstrate the potential access and privacy benefits of such systems. For example, the Ministry of Natural Resources (MNR) and the Ministry of Public Safety and Security (MPSS) are testing and implementing systems that contain features that can enhance public access to government-held information while simultaneously protecting the privacy of personal information.

MINISTRY OF NATURAL RESOURCES

The MNR is currently designing and implementing an innovative Web-based document management system that will enhance its ability to more efficiently locate records and facilitate the routine disclosure and active dissemination of information to the public. The system is made up of two components: An *online document management system* (ODMS) and an *online Web publishing system* (OWPS). Although the system is not a fully functional ERDMS (lacking basic capabilities for managing the retention and disposal of records), it has many important features. In addition, its developers are exploring new enhancements to bring it closer to full functionality.

The ODMS involves putting corporate documents, such as briefing notes, letters and presentations, in a central repository that can be accessed by all ministry staff. When staff create corporate documents, they are required to save them into the ODMS database, which serves as the central repository. The system also has a search function that allows staff to search the central repository for documents by keying in detailed search terms such as the title, author and creation date of a requested document.

The second component of MNR's document management system, the OWPS, telescopes into the central repository and looks at the document's "visibility" status. If the document has been marked as "visible" for the Intranet, Internet or Extranet, it will be pulled out of the central repository and made available for posting on these sites. MNR will be carefully reviewing all documents to ensure that no personal information or other information subject to the mandatory exemptions in the provincial *Act* is inadvertently disclosed on MNR's public Web site.

From an access perspective, MNR's document management system has two significant pluses. First, the ministry's freedom of information office can use the ODMS as a starting point for locating and retrieving documents in response to access requests. Second, the automated nature of the Web-publishing tool will help MNR to significantly expand the routine disclosure and active dissemination of information to the public.

MINISTRY OF PUBLIC SAFETY AND SECURITY

The MPSS is testing a new document management system in its business planning and issues management branches. Whenever a user creates and saves a document, the document management system requires that the document be classified. The user must attach a name and file classification to the document and specify access and security levels (i.e., who can access the document). The document is then deposited in a central repository.

That central repository has significant potential for enabling the ministry to more efficiently locate records when dealing with access requests. A document can be retrieved by its file name, creator's name, or date of creation, for example, or through a keyword-based full-text search function. In addition, for records that contain personal information, the setting of access and security levels, which makes a document available only to certain staff, enhances privacy by ensuring that only those staff that need a document for the performance of their duties shall have access to it.

The system also allows a user to view the history of a document. In other words, a user can see who has accessed the document, when it was accessed, and what changes or edits were made. This is important from an access perspective, because it provides requesters with a level of assurance that they are receiving the final, authentic version of a document. Moreover, it creates an audit trail, which is particularly useful in deterring the misuse or inappropriate disclosure of personal information.

MOVING FORWARD

In the recommendations section of this annual report, the IPC urges both provincial and municipal institutions to move forward with replacing outdated records management systems with ERDMSs. There is no "one size fits all" model that must be adopted by all government organizations. Variations in implementation are possible, as long as they meet provincial or municipal records management standards and are designed in a manner that respects, protects and fulfills the public's access and privacy rights.

PRIVACY MISCONCEPTIONS THAT NEED TO BE EXPOSED

Many organizations have come a long way in addressing privacy issues over the past few years. Gone are the days of releasing personal information with unthinking abandon (for the most part). However, there are a number of common misconceptions about privacy that can, if accepted at face value, seriously derail good intentions.

Here is a brief look at some of the key misconceptions:

Misconception 1: Privacy and Security are one and the same

This misconception seems to be a widely accepted truth, especially among technologists and information security professionals. The truth is that privacy centres on an individual's control over his or her personal information, while information security focuses on an organization's control of the information it collects and manages. The two concepts overlap, but there are distinct and potentially conflicting areas. For example, information may be secure, but at the same time used inappropriately in a way that threatens privacy. Tools such as the IPC's *Privacy Diagnostic Tool* can help organizations learn what the key privacy principles are and how they can be addressed (www.ipc.on.ca/PDT).

Misconception 2: Privacy is essentially a policy issue; security is a technology issue

Privacy experts fall prey to this misconception, perhaps more frequently than security experts. All too often, an organization believes that by developing a privacy policy and undertaking the necessary related communications, personal information will be protected. That's somewhat akin to jumping halfway across a deep hole. The deployed technology must also reflect the organization's privacy policy. This involves building privacy protections directly into the architecture design as well as introducing privacy-enhancing technology solutions.

Misconception 3: Privacy is someone else's problem

Increasingly, personal information is gathered and used in networked settings. A network of organizations can be involved in the simplest transactions, such as buying an Ontario Government publication online. Personal information is collected and disclosed across programs and with contracted third parties. All too often, no comprehensive accountability structure for privacy protection exists. Clear accountabilities need to be instituted and a culture of privacy needs to be developed. These two steps go a long way to making privacy everybody's business in an organization.

CONCLUSION

Privacy protection needs to be built on solid ground, not on misconceptions.

A detailed examination of privacy misconceptions can be found in a new, joint paper developed by the IPC and Deloitte and Touche, entitled: *Privacy and Security: Addressing the Issues and Misconceptions*.

FOI AND THE MEDIA: INFORMING THE PUBLIC AND PROMOTING DEBATE

Transparency. Government accountability. That's what freedom of information legislation is all about. These laws give the public a right of access to records documenting the activities of government, ranging from administration and operations to legislation and policy.

Why? To open the government up to scrutiny, and to hold elected and appointed officials accountable to the people they serve.

FOI legislation is extremely important. Some would argue that it is one of the cornerstones of a modern democracy. Professor Carlton Williams is one such person. He chaired the highly-respected Williams Commission in the early 1980s whose report served as the blueprint for Ontario's legislation. As he stated in his report, "...there is no question that an informed citizenry, one that has access to government-held information, is better able to make effective use of the means of expression of public opinion on political questions."

Years later, after FOI laws had been adopted by the federal government and several provinces, Canada's highest court endorsed the Williams Commission's view. In the well-known Dagg decision, now-retired Supreme Court of Canada Justice LaForest identified freedom of information legislation as a key facilitator of democracy by "help[ing] to ensure first, that citizens have the information required to participate meaningfully in the democratic process...."

And how do citizens exercise these important democratic rights? Many of them do so personally and directly. Most years, individuals top the list of requesters under both the provincial and the municipal *Acts*. But many others rely on the media to represent their interests – by pursing access to records that explain how and why public policy is developed, and explaining and analyzing information so that ordinary citizens can understand how government works. By informing the public about the operations of government, not only do members of the media help to hold it accountable, but they also provide a forum for the exchange of comment and criticism, enabling public participation in debate about matters of public interest.

Media representatives do not hesitate to voice frustrations about using FOI laws – delay in getting governments to respond to their access requests being the most common complaint. However, reporters are also among the most ardent supporters of FOI legislation and its underlying principles. In a study of the U.S. *Freedom of Information Act*, reported in the December 19, 2001 edition of *Access Reports*, the study's authors – Mark Tapscott and Nicole Taylor – note that, while the public might be surprised that members of the media do not make the most number of formal access requests, federal and state FOI laws are "trumpeted regularly by journalists as a significant tool in their quest to serve the 'public's right to know.'"

As Paul McMasters of the Freedom Forum explains, however, "the crucial point is not how often journalists use [FOI laws], but what they do with the requests they do make. Important news stories affecting public policy are published literally every day somewhere that would not have been possible [without the laws]."

Members of the media here in Ontario, and across Canada, are active users of FOI legislation, at the municipal, provincial and federal levels, whether filing stories based on the results of their own access requests or using information passed on to them from various public interest groups or researchers who have obtained records under FOI legislation. Hardly a day goes by that we don't read at least one significant article or hear at least one radio or television report that is "based on records" obtained under freedom of information legislation. From news stories to longer term investigative reports, on topics as wide ranging as government cost-overruns, restaurant inspection results, environmental contamination, and police investigation statistics, the media puts issues at the front of the public agenda, shedding light on subjects that deserve scrutiny and enabling informed debate.

And every once in a while, a story comes along that has a profound impact on public policy. During the past year, the federal government was embroiled in a long and highly controversial issue concerning how advertising contracts were awarded. In an article written well into the debate, veteran *Globe and Mail* columnist Hugh Windsor

voiced the view that "one savvy access-to-information request has become the thread that is unravelling the whole image of the squeaky-clean government of Prime Minister Jean Chretien."

Investigative journalism is arguably the best fit for freedom of information laws. It often takes time and a great deal of persistence to get to the bottom of a complicated public policy issue. Organizations such as the Atkinson Charitable Foundation augment the resources of individual media by providing fellowships for in-depth research – the Atkinson Fellowship in Public Policy. The fellowship allows one journalist to undertake a year-long research project on a topical public policy issue. The foundation's literature notes that in considering research proposals, the fellowship "...favours projects dealing with issues that are in the forefront of public debate and have implications for Canadian society at large."

We talked with several of the fellowship recipients about how extensively they had used the FOI process.

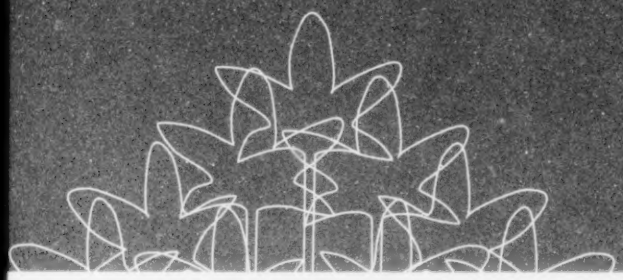
The 2002 fellowship winner is Ann Rees of the *Vancouver Province*. She has been a frequent user of federal and provincial FOI legislation, both in her daily work and her Atkinson research. Not surprisingly, she is a strong supporter of the law, and in her view: "Freedom of information legislation is key, it allows you to go behind the communications wall and get the original documents. It allows you to scrutinize government and is a key element in holding government accountable." Rees is using her fellowship year to research and write a series of in-depth stories on the state of freedom of information in Canada, focusing on how the legislation impacts the lives of individuals. While noting that using the legislation is not without its frustrations (e.g., time delay, fees), she is a strong supporter of the law. In her view: "The legislation is very important to journalism, as is the Atkinson Fellowship, which allows you a year to explore a public policy issue – there is nothing else like it."

Linda Goyette, the 2001 winner, told us that she did not use the FOI law in during her fellowship year, but that: "In retrospect, I wish I had. When I began my research, I thought that all of the information I needed was already in the public domain. That was a premature and incorrect conclusion. By the time I published my stories, I realized they would have benefited from FOI-assisted research...." Ms. Goyette thinks that "FOI-assisted research has produced some excellent results," but she, like many journalists, is disturbed by the time it takes for requests to be processed. "FOI legislation betrays its purpose if governments process requests as slowly and reluctantly as they do."

Lisa Priest, currently a reporter for the *Globe and Mail*, was the 1996 Atkinson winner. Her newspaper articles often include the familiar reference "obtained in response to a freedom of information request." She notes: "I routinely use freedom of information legislation, both provincially and federally. Though it can be trying at times and is often very labourious, it can also be richly rewarding. My requests often turn up original story material."

Freedom of information legislation, the media, and individual members of the public: an equation for transparency, government accountability and informed debate.

COMMISSIONER'S RECOMMENDATIONS



(1) PRIVACY LEGISLATION

Personal health information, and personal information held by universities and not-for-profit organizations, is far too sensitive to leave outside statutory privacy protections. Yet the Ontario government has not moved forward with the necessary legislation.

Unless a made-in-Ontario law is forthcoming, broad sectors of our society will not be covered by any privacy legislation. And even though the commercial business sector is scheduled to be covered by the federal *Personal Information Protection and Electronic Documents Act* (PIPEDA) on January 1, 2004, there are significant gaps in that legislation which need to be addressed. I strongly urge the government to make the introduction and passage of the *Privacy of Personal Information Act* a high priority.

(2) OPEN MEETINGS

The time has come for the Ontario government to introduce comprehensive open meetings legislation. This topic is discussed in detail in the *Key Issues* section of this report. In order to be truly accountable, public organizations at all levels must conduct their business in an open manner. Although the *Municipal Act* established open meeting requirements, it does not go far enough in addressing public expectations of transparency. Throughout the United States, "open records" and "open meetings" laws are seen as complementary components of the broad system of public accountability. The same theory should apply in Ontario.

Any such legislation must:

- impose obligations on public bodies to ensure that meetings are open to the public and that people are given proper and adequate advance notice;
- provide members of the public with a right to complain if they feel that open meeting rules have not been followed;
- establish an efficient and accessible oversight body that can investigate complaints and resolve disputes; and
- provide remedies and penalties if the law has been breached.

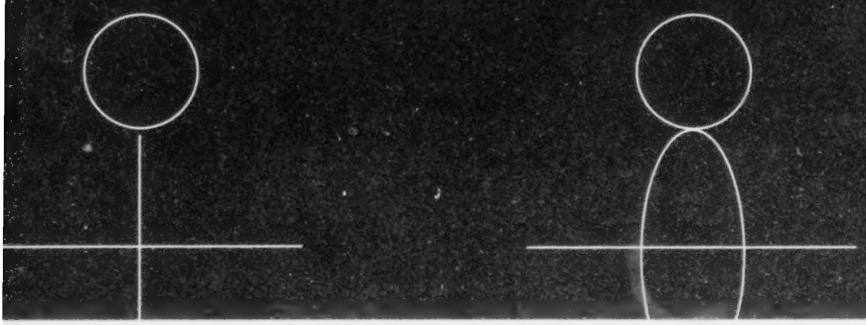
(3) PRIVACY-ENHANCING TECHNOLOGIES

Although the concept of building privacy into technology has been broadly accepted by government organizations in theory, far more can be done when it comes to grounding adequate privacy protections into systems architecture design. One effective way to do this is to build clear privacy requirements into all Requests For Proposals for the purchase of new technology and/or project design proposals. This will push venders to ramp up their capabilities to design privacy protections into program architecture.

(4) RECORDS MANAGEMENT

There is a pressing need for governments to modernize records management. I urge all government organizations, at both the provincial and municipal levels, to move forward with selecting and implementing electronic records and document management systems (ERDMSs), as described in the *Key Issues* section of this report. These systems should be designed in ways that will enhance the public's access and privacy rights, and should be developed in consultation with the institution's Freedom of Information and Privacy Coordinator. At the provincial government level, institutions should consult with the Archives of Ontario and the Office of the Corporate Chief Technology Officer, which are taking the lead in establishing a vendor-of-record process to facilitate the acquisition of flexible but robust ERDMS systems.

WORKING TOGETHER



Each year, the IPC's Tribunal Services Department, as part of its Institutional Relations Program, works collaboratively with selected municipal and provincial organizations as part of our ongoing efforts to:

- Gain a better understanding of the business of our institutional clients in order to deal more effectively with appeals and complaints; and
- Provide IPC mediators and institutional staff with an opportunity to better understand each other's roles and needs, and develop more productive relationships.

As in past years, we are pleased with the positive response to this initiative. The enthusiasm of government organizations, large and small, in working with our mediators on both projects of joint interest and in gaining a better understanding about our respective roles reinforces our view that there are many ways outside the statutory confines of appeals and complaints where we can work together to promote an understanding of and commitment to the *Acts*.

Here are some highlights of our work in 2002 with the municipal sector:

UPPER GRAND DISTRICT SCHOOL BOARD & PETERBOROUGH VICTORIA NORTHUMBERLAND & CLARINGTON CATHOLIC DISTRICT SCHOOL BOARD

There is increasing interest amongst schools and school boards in creating their own Web sites as a way to support communication with their communities. While Web sites can be utilized in many positive ways, such as highlighting school initiatives and events, schools and school boards must exercise caution when deciding whether to post personal information on their sites. Together with the Upper Grand District School Board and the Peterborough Victoria Northumberland & Clarington Catholic District School Board, the IPC produced *Posting Information on Web Sites: Best Practices for Schools and School Boards*. Although these best practices focus on issues frequently dealt with by schools and school boards, other municipal and provincial institutions can refer to these best practices for guidance when considering posting information on their Web sites.

FREEDOM OF INFORMATION POLICE NETWORK

Members of the IPC's municipal mediation team accepted invitations from the *Freedom of Information Police Network* to address its spring and fall meetings/training workshops for Freedom of Information and Privacy Co-ordinators and their staff from local police services across the province and from the Ontario Provincial Police. This year, the IPC's presentations focused on reviewing and promoting the paper produced jointly in 2001 by the Toronto Police Service and the IPC, *Exercising Discretion under section 38(b) of the Municipal Freedom of Information and Protection of Privacy Act – A Best Practice for Police Services*.

Here are some highlights of our work with the provincial sector:

MINISTRY OF HEALTH AND LONG-TERM CARE

In 2000-2001, the Freedom of Information and Protection of Privacy Office of the Ministry of Health and Long-Term Care undertook a business improvement project. Together with the IPC, it produced the paper, *Freedom of Information and Protection of Privacy Office Business Improvement Project*. The paper provides a brief overview of the project and focuses in greater detail on a key element: communications and training for the various client groups in the ministry to promote a shared understanding and accountability for compliance with the *Act*. We believe

this paper is an excellent resource for any institution looking to make performance improvements in the area of access and privacy.

MINISTRY OF PUBLIC SAFETY AND SECURITY

Police services throughout Ontario regularly receive requests under the *Acts* that involve records held by individual police officers, most notably police officer notebooks. The IPC and the Policing Services Division of the Ministry of Public Safety and Security, in consultation with the Ontario Police College, developed a fact sheet on the *Acts* that is now provided to all new police officers as part of their basic constable training program. In addition, freedom of information has been incorporated into the basic constable training course curriculum, as of January 2003.

Also during 2002, we worked with the Ontario Provincial Police to identify ways to improve freedom of information and privacy administration throughout the province-wide police service. As a result, the OPP has amended its police orders to require individual police officers to identify and forward their notebooks and other relevant documents to the Ministry's FOI office for processing within eight calendar days, and to ensure that all records are "true copies" with no severed or blacked-out information. The OPP has also designed an awareness program for freedom of information and privacy that will be presented to approximately 1,000 front line supervisors and middle/senior level OPP management staff during 2003. Finally, building on the Ontario Police College basic recruit training program, the OPP has plans in place to incorporate freedom of information and privacy into the dedicated training programs offered through the OPP's Police Academy.

JOINT EDUCATIONAL SESSION – JUSTICE SECTOR

This four-year-old program provides provincial access and privacy staff from the justice sector and IPC provincial mediators with an opportunity to exchange and share knowledge. The day-long 2002 educational session was attended by IPC mediators and access and privacy staff from the Ministry of the Attorney General and the Ministry of Public Safety and Security. It included a discussion on mediation, a presentation by Susan Woolway from the Nova Scotia Freedom of Information and Privacy Protection Review Office, who was on a job exchange at the IPC as a mediator, and a tour of the new North Central Correctional Centre.

And finally, on two occasions this year, the IPC's municipal and provincial mediation teams combined to do some joint work with the municipal and provincial sectors:

PROMOTING MEDIATION

Mediation is the preferred method of dispute resolution at the IPC, and we are committed to promoting the benefits of mediation to our clients. In 2001, the provincial mediation team invited a number of provincial co-ordinators and their staff to a meeting to talk about our approach to mediation and to share with them some of our mediation successes. In 2002, we decided to expand our approach. On two occasions, we invited a number of municipal and provincial co-ordinators and their staff to meet jointly with both mediation teams to discuss the benefits of mediation in general, and the IPC's approach to mediation in particular.

REQUESTS BY THE PUBLIC

Provincial and municipal government organizations are required under the *Acts* to submit a report to the IPC on the number of requests for information or correction to personal information they received in the prior calendar year, timeliness of responses, outcomes, fees collected, and other pertinent information.

In 2002, the total number of requests filed with provincial and municipal government organizations across Ontario jumped by 18 per cent over 2001 levels (26,863, up from 22,761). This is the fourth straight year that overall request volumes have increased.

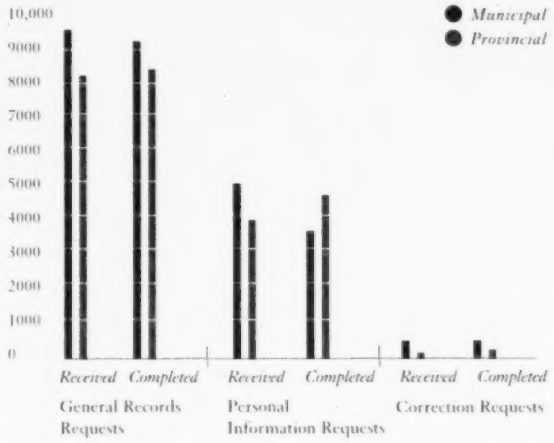
Provincial organizations received 9.8 per cent more requests in 2002 (12,198, up from 11,110 in 2001). Of these, 32 per cent (3,973) were for personal information and 67 per cent (8,225) were for general records. Increases at the municipal level were more dramatic. Municipal government organizations received 25 per cent more requests in 2002 (14,665, as compared to 11,665 in 2001). One-third (4,968) were personal information requests and the other two-thirds (9,697) were for general records.

As in past years, the Ministry of Environment received the largest number of requests under the provincial *Act* (4,091), followed by the ministries of Health and Long-Term Care (2,194), Public Safety and Security (2,062), and Labour (939). Together, these four ministries received 76 per cent of all provincial requests.

Police Services Boards also repeated this year as the sector receiving the most requests under the municipal *Act* – 51.6 per cent of all requests. Municipal corporations were next with 46.1 per cent, followed by school boards at 1.2 per cent and health boards with less than one per cent.

57.8 per cent of requests under the provincial *Act* were answered within the required 30-day statutory time period. This percentage declines to 54.3 per cent when restricted to provincial organizations where a minister is the head.

Requests Received and Completed – 2002



Almost four out of five provincial requests (79.3 per cent) were answered within 60 days (a 0.7 per cent improvement from 2001), but nine per cent took more than 120 days, a two per cent increase from 2001. Although the overall 30-day response standard has been steadily improving, the percentage of requests that take more than 120 days is also on the rise, increasing from four per cent in 2000 to the current nine per cent. This trend is alarming and should receive attention by provincial organizations in the upcoming year.

Again in 2002, municipal government organizations outperformed their provincial counterparts, responding to 75.9 per cent of requests within 30 days. The 60-day figure comes in at 88.6 per cent, and only one in 40 (2.5 per cent) requests took more than 120 days to complete, marginally higher

than the previous year. (For a more detailed discussion of compliance rates, see the chapter entitled *Response Rate Compliance*, which follows.)

The majority of provincial requests in 2002 (68 per cent) were made by businesses, while the majority of municipal requests (60.6 per cent) came from individuals.

The *Acts* contain a number of exemptions that allow, and in some situations actually require, government organizations to refuse to disclose requested information. In 2002, the most frequently cited exemption for personal information requests was the protection of other individuals' privacy (sections 49/38, in the provincial/municipal *Acts*). Privacy protection (sections 21/14) was also the most used exemption for general records requests.

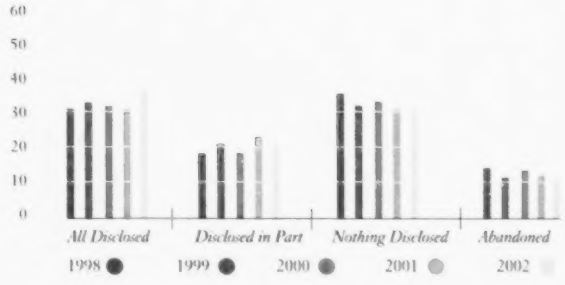
The *Acts* give individuals the right to request correction of their personal information. In 2002, provincial organizations received only two requests for corrections and refused three (one was a request received in 2001). Municipal organizations, on the other hand, received 585 correction requests and refused only four. When a correction is refused, the requester can attach a statement of disagreement to the record, outlining why the information is believed to be incorrect. In 2002, two statements of disagreement were filed with provincial organizations and two with municipal organizations.

The legislation contains a number of fee provisions. In addition to application fees, which are mandatory, government organizations can charge certain other prescribed fees for responding to requests. Where the anticipated charge is more than $25, a fee estimate can be given to a requester before search activity begins. Organizations have discretion to waive fees where it seems fair and equitable to do so after weighing several specific factors listed in the *Acts*.

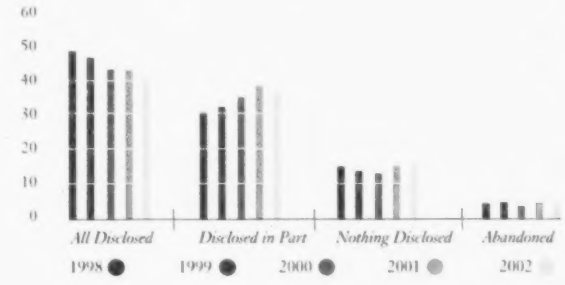
Provincial organizations reported collecting $197,230.14 in application fees and $130,785.02 in additional fees in 2002. The corresponding numbers for municipal organizations were $68,329.00 and $212,576.20.

Search fees were the most commonly charged category by provincial organizations (50 per cent), followed by reproduction costs (25 per cent) and shipping charges (16 per cent). Municipal organizations, in contrast, most frequently charged for reproduction costs (48 per cent), followed by search fees (24 per cent) and preparation costs (17 per cent).

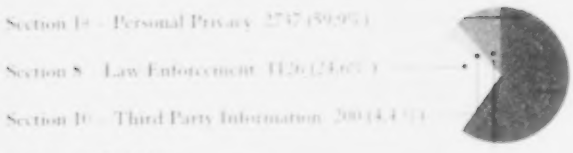
Outcome of Provincial Requests – 2002 (%)



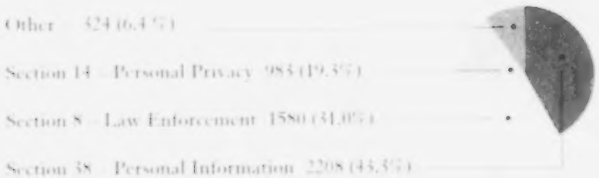
Outcome of Municipal Requests – 2002 (%)



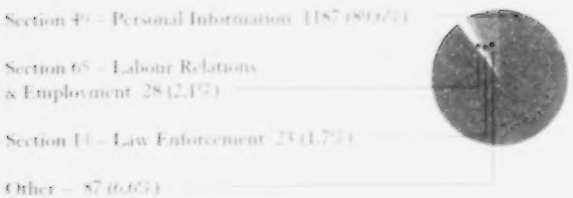
Municipal Exemptions Used General Records – 2002


Section 14 – Personal Privacy 2747 (59.9%)
Section 8 – Law Enforcement 1126 (24.6%)
Section 10 – Third Party Information 200 (4.4%)
Other – 507 (11.1%)

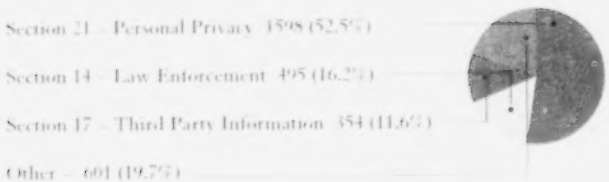
Municipal Exemptions Used Personal Information – 2002


Other – 424 (6.4%)
Section 14 – Personal Privacy 983 (19.3%)
Section 8 – Law Enforcement 1580 (31.0%)
Section 38 – Personal Information 2208 (43.3%)

Provincial Exemptions Used Personal Information– 2002


Section 49 – Personal Information 1187 (89.6%)
Section 65 – Labour Relations & Employment 28 (2.1%)
Section 14 – Law Enforcement 23 (1.7%)
Other – 87 (6.6%)

Provincial Exemptions Used General Records – 2002


Section 21 – Personal Privacy 1598 (52.5%)
Section 14 – Law Enforcement 495 (16.2%)
Section 17 – Third Party Information 354 (11.6%)
Other – 601 (19.7%)

Cases in Which Fees Were Estimated – 2002

	Provincial		*Municipal*	
Collected in Full	84.9%	4424	51.8%	3077
Waived in Part	8.7%	455	0.6%	34
Waived in Full	6.4%	333	47.6%	2830
Total Application Fees Collected (dollars)		$197,230.74		$68,329.00
Total Additional Fees Collected (dollars)		$130,785.02		$212,576.20
Total Fees Waived (dollars)		$49,243.39		$10,831.34

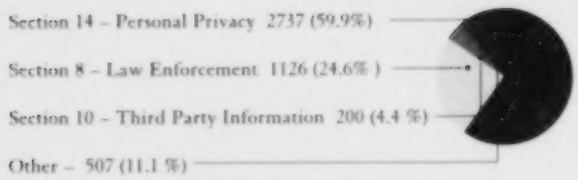
Average Cost of Provincial Requests for 2002

Personal Information	$9.30
General Records	$19.90

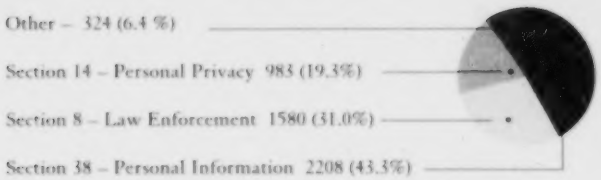
Average Cost of Municipal Requests for 2002

Personal Information	$7.74
General Records	$27.61

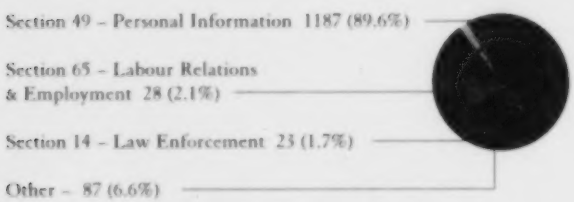
Municipal Exemptions Used General Records – 2002


Section 14 – Personal Privacy 2737 (59.9%)
Section 8 – Law Enforcement 1126 (24.6%)
Section 10 – Third Party Information 200 (4.4 %)
Other – 507 (11.1 %)

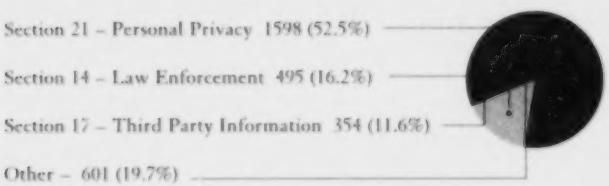
Municipal Exemptions Used Personal Information – 2002


Other – 324 (6.4 %)
Section 14 – Personal Privacy 983 (19.3%)
Section 8 – Law Enforcement 1580 (31.0%)
Section 38 – Personal Information 2208 (43.3%)

Provincial Exemptions Used Personal Information– 2002


Section 49 – Personal Information 1187 (89.6%)
Section 65 – Labour Relations & Employment 28 (2.1%)
Section 14 – Law Enforcement 23 (1.7%)
Other – 87 (6.6%)

Provincial Exemptions Used General Records – 2002


Section 21 – Personal Privacy 1598 (52.5%)
Section 14 – Law Enforcement 495 (16.2%)
Section 17 – Third Party Information 354 (11.6%)
Other – 601 (19.7%)

Cases in Which Fees Were Estimated – 2002

	Provincial		*Municipal*	
Collected in Full	[illegible]	[illegible]	51.8%	3077
Waived in Part	[illegible]	[illegible]	0.6%	331
Waived in Full	[illegible]	[illegible]	47.6%	2830
Total Application Fees Collected (dollars)		$197,230.74		$68,329.00
Total Additional Fees Collected (dollars)		$130,705.02		$212,576.20
Total Fees Waived (dollars)		[illegible]		$10,831.34

Average Cost of Provincial Requests for 2002

Personal Information	$9.10
General Records	$39.90

Average Cost of Municipal Requests for 2002

Personal Information	$7.73
General Records	$27.61

RESPONSE RATE COMPLIANCE

To help focus attention on the importance of complying with the response requirements of the *Acts*, the IPC reports compliance rates for each ministry and selected other government organizations.

PROVINCIAL ORGANIZATIONS

Four provincial ministries achieved a particularly high level of success in 2002 in meeting the 30-day response standard, while at the same time dealing with a large volume of requests. The IPC recognizes their efforts and acknowledges their continued excellence in meeting the statutory standard for more than 80 per cent of their requests. They are the ministries of the Attorney General, Consumer and Business Services, Labour and Transportation.

The IPC also wishes to recognize the significant improvement achieved by the Ministry of Public Safety and Security (MPSS). In 2001, the former ministries of the Solicitor General and Correctional Services (that were merged to create MPSS) had a combined response rate of 59.3 per cent. In 2002, the rate increased dramatically to 78.7 per cent, despite an increase of 15 per cent in the number of requests received during the year. Ministry staff are to be commended for their efforts.

Overall, 57.8 per cent of provincial requests were answered within 30 days in 2002, an increase from 55.6 per cent the previous year. Although there is still much room for improvement, the IPC is pleased to note the continued upward movement in the overall compliance figure since we began reporting compliance rates for specific institutions four years ago. It is also important to recognize that this modest improvement in 2002 was attained despite a significant work disruption during a multi-week public sector strike.

The Ministry of Health and Long-Term Care experienced a sharp decline in the 30-day compliance rate during 2002, moving to 60.7 per cent from the excellent 83.3 per cent figure the year before. The ministry explains that the strike played a major role in this decrease, as did a second work stoppage at the ministry's Kingston office during 2002. Our hope is that 2002 represents a brief slip in the otherwise steady progress made by the Ministry of Health in improving compliance rates since 1999.

Of those ministries receiving at least 100 requests, only the Ministry of the Environment failed to achieve a 50 per cent compliance rate – meeting the 30-day requirement only 25.6 per cent of the time. Although this represents almost a doubling of its 13.6 per cent compliance rate in 2001, this ministry's performance continues to be a significant drag on the overall provincial compliance figure. If the Ministry of the Environment is removed from the calculation, the provincial rate improves to 77 per cent; and if the Ministry of Health's sub-standard figure is also removed, the rate jumps further to 82.4 per cent. It is both significant and encouraging to note that the Ministry of the Environment was able to realize sizable compliance improvements this year, despite the public sector strike. This suggests that the measures being taken by the ministry, as reported in last year's annual report, are beginning to make a difference.

NOTICE OF EXTENSIONS AND NOTICE TO THIRD PARTIES

The *Acts* require government organizations to issue an access decision within 30 days of receiving a request, subject to two exceptions. A government organization can issue a Notice of Extension to extend the response time (section 27(1) of the provincial *Act*; section 20(1) of the municipal *Act*), and must issue a Notice to Affected Person (section 28(1) and section 21(1), respectively) in certain circumstances.

Provincial: Number of Requests Completed in 2002 *(includes only Boards, Agencies and Commissions where the Minister is the Head)*

Ministry	*Requests Received*	*Requests Completed*	*Within 1-30 days*		*Within 31-60 days*		*Within 61-90 days*		*More than 90 days*	
			No. of Requests	*%*	*No. of Requests*	*%*	*No. of Requests*	*%*	*No. of Requests*	*%*
Agriculture & Food	24	21	19	90.5	2	9.5	0	0.0	0	0.0
Attorney General/ONAS	345	305	282	92.5	12	3.9	10	3.3	1	0.3
Cabinet Office	43	43	41	95.4	1	2.3	0	0.0	1	2..
Citizenship	50	47	28	59.6	8	17.0	2	4.3	9	19.1
Community, Family & Children's Services	421	396	290	73.2	68	17.2	20	5.1	18	4.5
Consumer & Business Services	268	259	255	98.4	2	0.8	2	0.8	0	0.0
Culture	7	4	2	50.0	1	25.0	1	25.0	0	0.0
Education	30	29	21	72.4	5	17.3	2	6.9	1	3.4
Energy	17	11	7	63.6	1	9.1	1	9.1	2	18.2
Enterprise, Opportunity & Innovation	11	8	8	100.0	0	0.0	0	0.0	0	0.0
Environment	4090	4491	1148	25.6	1591	35.4	613	13.6	1139	25.4
Finance	193	206	153	74.3	26	12.6	8	3.9	19	9.2
Francophone Affairs	1	2	2	100.0	0	0.0	0	0.0	0	0.0
Health and Long-Term Care	2194	1870	1136	60.7	438	23.4	107	5.7	189	10.1
Intergovernmental Affairs	4	4	4	100.0	0	0.0	0	0.0	0	0.0
Labour	735	726	584	80.4	56	7.7	38	5.2	48	6.6
Management Board Secretariat	50	43	37	86.0	0	0.0	3	7.0	3	7.0
Municipal Affairs and Housing	41	39	25	64.1	11	28.2	1	2.6	2	5.1
Natural Resources	122	122	68	55.7	37	30.3	10	8.2	7	5.7
Northern Development and Mines	7	6	6	100.0	0	0.0	0	0.0	0	0.0
Public Safety and Security	2062	1976	1555	78.7	252	12.8	87	4.4	82	4.1
Tourism and Recreation	23	24	8	33.3	11	45.8	3	12.5	2	8.3
Training, Colleges and Universities	48	48	38	79.2	10	20.8	0	0.0	0	0.0
Transportation	270	239	210	87.9	19	7.9	5	2.1	5	2.1

Top Five Municipal Corporations *(Population under 50,000) based on numbers of requests completed*

	Requests Received	*Requests Completed*	*Within 1-30 days*		*Within 31-60 days*		*Within 61-90 days*		*More than 90 days*	
			No. of Requests	*%*	*No. of Requests*	*%*	*No. of Requests*	*%*	*No. of Requests*	*%*
Town of Ajax (66,958)	35	34	34	100.0	0	0.0	0	0.0	0	0.0
Town of Caledon (44,820)	33	33	31	94.0	1	3.0	1	3.0	0	0.0
Township of Dorion (417)	22	22	22	100.0	0	0.0	0	0.0	0	0.0
Town of Georgina (35,035)	92	92	90	97.8	1	1.1	1	1.1	0	0.0
Town of Midland (16,110)	16	16	16	100.0	0	0.0	0	0.0	0	0.0

Provincial Compliance including Notice of Extension and Notice to Third Parties

(includes Boards, Agencies and Commissions where the Minister is the Head)

Ministry	*Compliance including s.27(1) s.28(1)* %
Agriculture & Food	90.5
Attorney General/ONAS	93.1
Cabinet Office	97.7
Citizenship/OWD	61.7
Community, Family & Children's Services	77.0
Consumer & Business Services	99.2
Culture	50.0
Education	86.2
Energy	63.6
Enterprise, Opportunity & Innovation	100.0
Environment	25.6
Finance	76.2
Francophone Affairs	100.0
Health and Long-Term Care	61.9
Intergovernmental Affairs	100.0
Labour	82.1
Management Board Secretariat	86.0
Municipal Affairs and Housing	64.1
Natural Resources	79.5
Northern Development and Mines	100.0
Public Safety and Security	79.0
Tourism and Recreation	66.7
Training, Colleges and Universities	95.8
Transportation	90.0

Top Five Municipal Corporations *(Population under 50,000) based on number of requests completed*

	Compliance including s.20(1) s.21(1) %
Town of Ajax (66,958)	100.0
Town of Caledon (44,820)	97.0
Township of Dorion (417)	100.0
Town of Georgina (35,035)	100.0
Town of Midland (16,110)	100.0

Provincial: Number of Requests Completed in 2002 *(excludes only Boards, Agencies and Commissions where the Ministry is the Head)*

Ministry	Requests Received	Requests Completed	Within 30 days: No. of Requests		Within 31-60 days: No. of Requests		Within 61-90 days: No. of Requests		More than 90 days: No. of Requests	
Agriculture & Food	24	21	19	90.5	2	9.5	0	0.0	0	0.0
Attorney General/OPASS	345	305	282	92.5	12	3.9	10	3.3	1	0.3
Cabinet Office	43	43	41	95.4	1	2.3	0	0.0	1	2.3
Citizenship	50	47	28	59.6	8	17.0	2	4.3	9	19.1
Community, Family & Children's Services	421	396	290	73.2	68	17.2	20	5.1	18	4.5
Consumer & Business Services	268	259	255	98.4	2	0.8	2	0.8	0	0.0
Culture	7	4	2	50.0	1	25.0	1	25.0	0	0.0
Education	30	29	21	72.4	5	17.3	2	6.9	1	3.4
Energy	17	11	7	63.6	1	9.1	1	9.1	2	18.2
Enterprise, Opportunity & Innovation	11	8	8	100.0	0	0.0	0	0.0	0	0.0
Environment	4090	4491	1148	25.6	1591	35.4	613	13.6	1139	25.4
Finance	193	206	153	74.3	26	12.6	8	3.9	19	9.2
Francophone Affairs	1	2	2	100.0	0	0.0	0	0.0	0	0.0
Health and Long-Term Care	2194	1870	1136	60.7	438	23.4	107	5.7	189	10.1
Intergovernmental Affairs	4	4	4	100.0	0	0.0	0	0.0	0	0.0
Labour	735	726	584	80.4	56	7.7	38	5.2	48	6.6
Management Board Secretariat	50	43	37	86.0	0	0.0	3	7.0	3	7.0
Municipal Affairs and Housing	41	39	25	64.1	11	28.2	1	2.6	2	5.1
Natural Resources	122	122	68	55.7	37	30.3	10	8.2	7	5.7
Northern Development and Mines	7	6	6	100.0	0	0.0	0	0.0	0	0.0
Public Safety and Security	2062	1976	1555	78.7	252	12.8	87	4.4	82	4.1
Tourism and Recreation	23	24	8	33.3	11	45.8	3	12.5	2	8.3
Training, Colleges and Universities	48	48	38	79.2	10	20.8	0	0.0	0	0.0
Transportation	270	239	210	87.9	19	7.9	5	2.1	5	2.1

Top Five Municipal Corporations *(Population source: Statistics Canada 2001 Census)*

	Requests Received	Requests Completed	Within 30 days: No. of Requests		Within 31-60 days: No. of Requests		Within 61-90 days: No. of Requests		More than 90 days: No. of Requests	
Town of Ajax (66,388)	35	34	34	100.0	0	0.0	0	0.0	0	0.0
Town of Caledon (43,820)	33	33	31	94.0	1	3.0	1	3.0	0	0.0
Township of Dorion (917)	22	22	22	100.0	0	0.0	0	0.0	0	0.0
Town of Georgina (39,035)	92	92	90	97.8	1	1.1	1	1.1	0	0.0
Town of Midland (16,119)	16	16	16	100.0	0	0.0	0	0.0	0	0.0

Provincial Compliance including Notice of Extension and Notice to Third Parties

[illegible]	90.5
[illegible]	93.1
[illegible]	97.7
[illegible]	64.7
[illegible]	77.0
[illegible]	99.2
[illegible]	50.0
[illegible]	86.2
[illegible]	63.6
[illegible]	100.0
[illegible]	25.6
[illegible]	76.2
[illegible]	100.0
[illegible]	61.9
[illegible]	100.0
[illegible]	82.1
[illegible]	86.0
[illegible]	64.1
[illegible]	79.5
[illegible]	160.0
[illegible]	79.0
[illegible]	66.7
[illegible]	95.8
[illegible]	90.0

Top Five Municipal Corporations

[illegible]	100.0
[illegible]	97.0
[illegible]	100.0
[illegible]	100.0
[illegible]	100.0

A Notice of Extension can be issued when:

- The request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the organization's operations; or
- Consultations with a person outside the organization are necessary to comply with the request and cannot reasonably be completed within the time limit.

A Notice to Affected Person must be issued when the record:

- Might contain information revealing a trade secret or scientific, technical, commercial, financial or labour relations information that affects the interests of a third party; or
- Is personal information that might constitute an unjustified invasion of personal privacy.

The legitimate issuance of either Notice means that a government organization can be in compliance with the *Act*, despite the fact that it takes more than 30 days to respond to a request. Accordingly, and in order to more accurately reflect actual compliance with the response provisions of the provincial *Act*, the IPC asked ministries to report on the number of times they issued these Notices and complied with the extended time frames. The chart at page 23 reflects compliance figures for provincial ministries that include section 27 and 28 Notices.

By including these two sections in the compliance equation, the provincial compliance figure increases slightly to 58.8 per cent from 57.8 per cent. Although this does not represent a significant overall improvement, it does make a major difference to the compliance rate for a number of individual ministries. Perhaps the most dramatic example is the Ministry of Natural Resources. Once section 27 and 28 Notices are accounted for, the ministry's compliance rate increases to 79.5 per cent from 55.7 per cent, an excellent achievement. This would appear to substantiate the ministry's comments last year that the reported figure did not adequately account for the high proportion of requests requiring section 27 or section 28 Notices.

After taking into account the impact of section 27 and 28 Notices, five provincial ministries (in addition to the ministries of Health and Environment) have compliance rates under 70 per cent. All of them deal with a relatively small number of requests, but each should give careful consideration in the upcoming year to identifying ways to improve compliance rates. They are the ministries of Citizenship, Culture, Energy, Tourism and Recreation, and Municipal Affairs and Housing. Since 1999, we have had considerable success in working with institutions to identify ways to improve compliance, and would be prepared to do so again in the upcoming year.

MUNICIPAL ORGANIZATIONS

In recent years, municipal institutions have consistently achieved a higher level of compliance with the 30-day standard than their provincial counterparts – a trend that continued in 2002. Overall, municipal government organizations responded to 75.9 per cent of requests within the required time frame.

However, this year's figure continues another, more worrying, trend. The overall compliance rate for municipal organizations has been in steady decline since reaching 85 per cent in 1999. Much of this decline can be attributed to the performance of one institution, the Toronto Police Services Board. Its compliance rate fell from 55.1 per cent in 2001 to 34.3 per cent in 2002. Even when the section 20 and 21 Notices are factored in, the compliance rate increases only to 42.9 per cent. If the Toronto Police Services Board is removed from the municipal calculation, the overall compliance rate for all municipal institutions increases to 84.2 per cent. The Toronto Police Services Board had a similar impact on overall compliance rates in 2001.

The accompanying charts provide compliance rates for municipal institutions receiving significant numbers of requests. As with provincial organizations, we have also included separate charts on page 27 that take into account the impact of Notices of Extension and Notices to Affected Person under section 20 and 21 of the municipal *Act*.

Municipalities

Municipalities have been grouped according to their population. The larger municipalities continued to perform well in meeting the 30-day response standard. Most notably, the City of Hamilton continued to improve its performance, moving up from 61.4 per cent in 2001 to 84.4 per cent in 2002. The cities of Mississauga and Ottawa and the Regional Municipality of York achieved compliance rates in excess of 90 per cent for the year.

Small-to medium-sized municipalities continued their outstanding performance. Particular recognition should be given to municipalities with populations of between 50,000 and 200,000. Despite receiving significant numbers of requests, the top five municipalities in this category all attained compliance rates above 97 per cent.

Police Services

With the exception of Toronto, police services generally had good compliance rates. For the third year in a row, the Halton Regional Police Services Board achieved a perfect record by responding to 100 per cent of requests within the 30-day time frame. When section 20 and 21 Notices are taken into account, the compliance rate for the Niagara Regional Police Services Board increased from an already commendable 84.6 per cent to an outstanding 95.5 per cent!

School Boards

This year, we have decided to report compliance rates for a third category of municipal institutions – school boards. Although school boards collectively received a relatively modest number of access requests, the board receiving the highest volume, Niagara District School Board, achieved a perfect response record. The Conseul Scolaire de District du Centre Sud-Ouest, fared less well, achieving only a 23.1 per cent compliance rate despite responding to a very small number of requests. When section 20 and 21 Notices are taken into account, the Conseul's figure rises to a more acceptable 69.2 per cent.

Top Five Municipal Corporations *(Population between 50,000 and 200,000) based on numbers of requests completed*

	Requests Received	Requests Completed	Within 1-30 days No. of Requests	%	Within 31-60 days No. of Requests	%	Within 61-90 days No. of Requests	%	More than 90 Days No. of Requests	%
City of Kitchener (187,700)	316	315	312	99.0	3	1.0	0	0.0	0	0.0
County of Lambton (126,971)	134	134	134	100.0	0	0.0	0	0.0	0	0.0
Town of Oakville (132,696)	125	120	119	99.2	1	0.8	0	0.0	0	0.0
Town of Richmond Hill (110,160)	353	352	343	97.4	9	2.6	0	0.0	0	0.0
City of Vaughan (160,000)	183	185	182	98.4	3	1.6	0	0.0	0	0.0

Top Five Municipal Corporations *(Population over 200,000) based on numbers of requests completed*

	Requests Received	Requests Completed	Within 1-30 days No. of Requests	%	Within 31-60 days No. of Requests	%	Within 61-90 days No. of Requests	%	More than 90 Days No. of Requests	%
City of Mississauga (623,500)	375	374	358	95.7	15	4.0	0	0.0	1	0.3
City of Ottawa (719,543)	630	611	602	98.5	8	1.3	1	0.2	0	0.0
City of Hamilton (489,457)	178	186	157	84.4	9	4.8	4	2.2	16	8.6
City of Toronto (2,162,147)	3091	2840	1918	67.5	375	13.2	229	8.1	318	11.2
Regional Municipality of York (634,170)	42	41	37	90.2	3	7.3	1	2.5	0	0.0

Top Five School Boards *(ranked on numbers of requests completed)*

	Requests Received	Requests Completed	Within 1-30 days No. of Requests	%	Within 31-60 days No. of Requests	%	Within 61-90 days No. of Requests	%	More than 90 Days No. of Requests	%
Conseil Scolaire de District du Centre-Sud-Ouest	11	13	3	23.1	6	46.1	4	30.8	0	0.0
Hastings & Prince Edward District School Board	22	22	16	72.7	5	22.7	1	4.6	0	0.0
Niagara District School Board	39	37	37	100.0	0	0.0	0	0.0	0	0.0
Ottawa-Carleton District School Board	13	12	9	75.0	2	16.7	0	0.0	1	8.3
Thames Valley District School Board	18	18	14	77.8	2	11.1	0	0.0	2	11.1

Top Five Police Institutions *(based on numbers of requests completed)*

	Requests Received	Requests Completed	Within 1-30 days No. of Requests	%	Within 31-60 days No. of Requests	%	Within 61-90 days No. of Requests	%	More than 90 Days No. of Requests	%
Durham Regional Police Service	544	527	459	87.1	64	12.1	2	0.4	2	0.4
Halton Regional Police Service	553	552	552	100.0	0	0.0	0	0.0	0	0.0
Hamilton Police Service	1144	1132	765	67.6	295	26.1	59	5.2	13	1.1
Niagara Regional Police Service	677	664	562	84.6	92	13.9	10	1.5	0	0.0
Toronto Police Service	2566	2346	803	34.3	732	31.2	526	22.4	283	12.1

Top Five Municipal Corporations *(Population between 50,000 and 200,000) based on number of requests completed*

	Compliance including s.20(1) s.21(1) %
City of Kitchener (187,700)	[illegible]
County of Lambton (126,971)	[illegible]
Town of Oakville (132,696)	100.0
Town of Richmond Hill (110,160)	100.0
City of Vaughan (160,000)	[illegible]

Top Five Municipal Corporations *(Population over 200,000) based on number of requests completed*

	Compliance including s.20(1) s.21(1) %
City of Mississauga (623,500)	95.1
City of Hamilton (489,457)	96.2
City of Ottawa (719,543)	98.7
City of Toronto (2,162,147)	87.7
Regional Municipality of York (634,170)	98.9

Top Five School Boards *(based on number of requests completed)*

	Compliance including s.20(1) s.21(1) %
Conseil Scolaire de District du Centre-Sud-Quest	89.7
Hastings and Prince Edward District School Board	100.0
Niagara District School Board	100.0
Ottawa-Carleton District School Board	83.3
Thames Valley District School Board	100.0

Top Five Police Institutions *(based on number of requests completed)*

	Compliance including s.20(1) s.21(1) %
Durham Regional Police Service	*
Halton Regional Police Service	100.0
Hamilton Police Service	*
Niagara Regional Police Service	95.5
Toronto Police Service	42.9

* *Incomplete Statistics*

Top Five Municipal Corporations

	316	315	312	99.0	3	1.0	0	0.0	0	0.0
	134	134	134	100.0	0	0.0	0	0.0	0	0.0
	125	120	119	99.2	1	0.8	0	0.0	0	0.0
	353	352	343	97.4	9	2.6	0	0.0	0	0.0
	183	185	182	98.4	3	1.6	0	0.0	0	0.0

Top Five Municipal Corporations

	375	374	358	95.7	15	4.0	0	0.0	1	0.3
	630	611	602	98.5	8	1.3	1	0.2	0	0.0
	178	186	157	84.4	9	4.8	4	2.2	16	8.6
	3091	2840	1918	67.5	375	13.2	229	8.1	318	11.2
	42	41	37	90.2	3	7.3	1	2.5	0	0.0

Top Five School Boards

Conseil Scolaire de District du Centre-Sud-Ouest	11	13	3	23.1	6	46.1	4	30.8	0	0.0
Hastings & Prince Edward District School Board	22	22	16	72.7	5	22.7	1	4.6	0	0.0
Niagara District School Board	39	37	37	100.0	0	0.0	0	0.0	0	0.0
Ottawa-Carleton District School Board	13	12	9	75.0	2	16.7	0	0.0	1	8.3
Thames Valley District School Board	18	18	14	77.8	2	11.1	0	0.0	2	11.1

Top Five Police Institutions

Durham Regional Police Service	544	527	459	87.1	64	12.1	2	0.4	2	0.4
Halton Regional Police Service	553	552	552	100.0	0	0.0	0	0.0	0	0.0
Hamilton Police Service	1144	1132	765	67.6	295	26.1	59	5.2	13	1.1
Niagara Regional Police Service	677	664	562	84.6	92	13.9	10	1.5	0	0.0
Toronto Police Service	2566	2346	803	34.3	732	31.2	526	22.4	285	12.1

Top Five Municipal Corporations *(Population between 50,000 and 200,000) based on number of requests completed*

Compliance including 2011 - 2014

City of Kitchener ([illegible])	100.0
County of Lambton (126,971)	100.0
Town of Oakville (182,696)	100.0
Town of Richmond Hill (110,160)	100.0
City of Vaughan (160,980)	98.4

Top Five Municipal Corporations *(Population over 200,000) based on number of requests completed*

Compliance including 2011 - 2014

City of Mississauga (624,500)	95.7
City of Hamilton (480,457)	96.2
City of Ottawa (729,543)	98.7
City of Toronto (2,162,147)	67.7
Regional Municipality of York (634,170)	90.2

Top Five School Boards *(based on number of requests completed)*

Compliance including 2011 - 2014

Conseil Scolaire de District du Centre Sud-Ouest	69.2
Hastings and Prince Edward District School Board	100.0
Niagara District School Board	100.0
Ottawa Carleton District School Board	83.3
Thames Valley District School Board	100.0

Top Five Police Institutions *(based on number of requests completed)*

Compliance including 2011 - 2014

Durham Regional Police Service	*
Halton Regional Police Service	100.0
Hamilton Police Service	*
Niagara Regional Police Service	95.5
Toronto Police Service	42.9

** Insufficient Statistics*

ACCESS

The concept of any individual being able to access government-held information is one of the fundamental principles of accountable government and participatory democracy.

This principle is reflected in the provincial and municipal *Acts*, which provide that, subject to limited and specific exemptions, information under the control of government organizations should be available to the public. Records that do not contain the personal information of the requester are referred to as "general records."

If you make a request under one of the *Acts* to a provincial or municipal government organization, and are not satisfied with the response, you can appeal the decision to the IPC. *General records appeals* can be filed concerning a refusal to provide access to general records, the amount of fees charged, the fact that the organization did not respond within the prescribed 30-day period, or other procedural aspects relating to a request. (Appeals relating to requests for access to one's own personal information are covered in this annual report in the chapter entitled *Privacy*.)

When an appeal is received, the IPC first attempts to settle it informally. If all issues cannot be resolved within a reasonable period of time, the IPC may conduct an inquiry and issue a binding order, which could include ordering the government organization to release all or part of the requested information.

STATISTICAL OVERVIEW

Overall, 919 appeals regarding access to *general records* and *personal information* were made to the IPC in 2002, a decrease of three per cent from 2001. The overall number of appeals closed in 2002 was 837, a decrease of 11 per cent from 2001. The decline in the number of appeals closed in 2002 is attributable in part to staffing issues at provincial ministries related to a public service strike. A number of appeals were also delayed due to an impending court decision.

ACCESS TO GENERAL RECORDS

Appeals Open

Overall, 569 appeals regarding access to general records were made to the IPC in 2002. Of these, 277 (49 per cent) were filed under the provincial *Act* and 291 (51 per cent) were filed under the municipal *Act*. One non-jurisdictional general records appeal was made in 2002.

Of the 277 provincial general records appeals received, 239 (86 per cent) involved ministries and 38 (14 per cent) involved agencies. The Ministry of Health and Long-Term Care was involved in the largest number of general records appeals (46), followed by the ministries of Public Safety and Security (36), Natural Resources (31), Environment (27), and Consumer and Business Services (24). The agencies with the highest number of general records appeals included the Public Guardian and Trustee (11), Ontario Lottery and Gaming Corporation (five), Centennial College (five), and Ontario Rental Housing Tribunal (four).

Of the 291 municipal general records appeals received, 198 (68 per cent) involved municipal corporations, 56 (19 per cent) involved the police, and 20 (seven per cent) involved boards of education. The other 17 (six per cent) appeals involved other types of municipal institutions.

In terms of the issues raised, 44 per cent of appeals were related to exemptions claimed by institutions in refusing to grant access. An additional eight per cent concerned exemptions with other issues. Thirteen per cent were the result of deemed refusals to provide access (the institution had not responded to the request within the timeframe required by the *Acts)*. Eight per cent were third party appeals. In about eight per cent of appeals, the issue was whether the institution had conducted a reasonable search for the records requested. The remaining appeals were related to fees, time extensions and other issues.

While the proportions of each issue in provincial and municipal appeals were similar, there were some differences. Specifically, appeals filed under the provincial *Act* were more likely to relate to the exemptions claimed and were more likely to be third party appeals. Appeals under the municipal Act were more likely to be related to deemed refusals, time extensions, and requests deemed frivolous and vexatious.

Provincial institutions with the largest number of deemed refusal appeals were the ministries of Environment and Energy (10) and Health and Long-Term Care (six). Municipal institutions with the largest number of such appeals included the City of Toronto (18), the Township of Stone Mills (five), the City of Stratford (four), the Regional Municipality of Niagara (four) and the District Municipality of Muskoka (three). No other provincial or municipal institution had more than two deemed refusal appeals.

The largest proportion of appellants was from the business sector (39 per cent). (For example, if a company were to appeal a denial of access to a competitor's bid for a government contract, the appellant would be categorized as a business.) An almost equal number of appellants were individual members of the public (just under 39 per cent). Other appellants were categorized as media (10 per cent), associations (six per cent), other governments (three per cent), unions (two per cent) politicians (one per cent), and academics/researchers (one per cent). (With respect to the category of government, if a municipality were to appeal a decision of a provincial government institution, the appellant would be categorized as government.)

Lawyers (101) and agents (nine) represented appellants in 19 per cent of general records appeals made in 2002.

In 2002, $9,686 in application fees for general records appeals was paid to the IPC.

Appeals Closed

The IPC closed 527 general records appeals during 2002. Of these, 259 (49 per cent) concerned provincial institutions and 267 (51 per cent) concerned municipal institutions. One non-jurisdictional general records appeal was closed in 2002.

Seventy-four per cent of general records appeals were closed without the issuance of a formal order. Of the appeals closed by means other than an order, two per cent were screened out, 68 per cent were mediated in full, 27 per cent were withdrawn, two per cent were abandoned, and one per cent dismissed without an inquiry. Of the 154 general records appeals that were not mediated in full and went on to adjudication, 84 (55 per cent) were mediated in part.

In comparing the outcomes of provincial and municipal appeals, provincial appeals were somewhat more likely to be mediated in full and municipal appeals were somewhat more likely to be abandoned or withdrawn.

Of the 527 general records appeals closed in 2002, 18 per cent were closed during the intake stage, 53 per cent during the mediation stage, and 29 per cent during the adjudication stage.

Of the appeals closed at the intake stage, 91 per cent were withdrawn and nearly 10 per cent were screened out. Of the appeals closed during the mediation stage, 93 per cent were mediated in full, four per cent were closed by issuing a formal order, two per cent were withdrawn, and one per cent abandoned. Of the appeals closed during the adjudication stage, 81 per cent were closed by issuing a formal order, 10 per cent were withdrawn, five per cent were mediated in full, two per cent were abandoned, and two per cent were dismissed without an inquiry.

In 2002, 27 per cent of general records appeals were closed by issuing an order. The IPC issued a total of 134 final orders – 77 provincial and 57 municipal.[1] In addition, the IPC issued 22 interim orders – 15 provincial and seven municipal.[2]

In the appeals resolved by order, the decision of the head was upheld in 31 per cent and partly upheld in 35 per cent of cases. The head's decision was not upheld in about 27 per cent of the appeals closed by order. The decision of the head was upheld or partially upheld in 78 per cent of provincial orders and 51 per cent of municipal orders.

Issues in General Records Appeals

	Provincial	%	*Municipal*	%	*Total*	%
Exemptions		47.7		40.5		44.0
Exemptions with other Issues		6.9		9.6		8.3
Deemed Refusal		9.0		17.5		13.4
Reasonable Search		7.9		7.2		7.6
Interim Decision		3.2		3.8		3.5
Third Party		14.8		2.1		8.3
Fees		2.2		3.8		3.0
Time extension		1.4		3.8		2.6
Inadequate Decision		1.1		0.7		0.9
Frivolous/vexatious request				5.5		2.8
Transfer		0.4				0.2
Other		5.4		5.5		5.5
Total		**100.0**		**100.0**		**100.0**

* *One additional non-jurisdictional appeal was related to other issues.*

Types of Appellants

	Provincial	%	*Municipal*	%	*Total*	%
Academic/Researcher		1.4				0.7
Business		40.4		38.5		39.4
Government		5.1		0.3		2.6
Individual		28.9		47.8		38.6
Media		12.6		6.5		9.5
Association/Group		7.9		5.2		6.5
Politician		1.8		0.3		1.1
Union		1.8		1.4		1.6
Total		**100.0**		**100.0**		**100.0**

* *An individual filed an additional non-jurisdictional appeal in 2002.*

The number of appeals closed by order exceeds the number of orders, since three appeals were closed by interim order. Appeals closed by interim orders are not usually included in the number of appeals closed by order.

Overall, the IPC issued a total of 179 final orders – 134 pertaining to access to general records and 45 pertaining to access to personal information. Also, the IPC issued 28 interim orders – 22 pertaining to access to general records and six pertaining to access to personal information.

Outcome of Appeals Closed Other Than by Order

	Provincial	*%*	*Municipal*	*%*	*Total*	*%*
Screened out	5	2.2	5	2.4	9	2.3
Mediated in Full	162	72.5	130	64.3	285	68.1
Withdrawn	48	23.6	61	30.4	106	27.2
Abandoned	1	0.5	5	2.5	6	1.5
No inquiry	2	1.1	1	0.5	3	0.8
Total	**222**	**100.0**	**202**	**100.0**	**429***	**100.0**

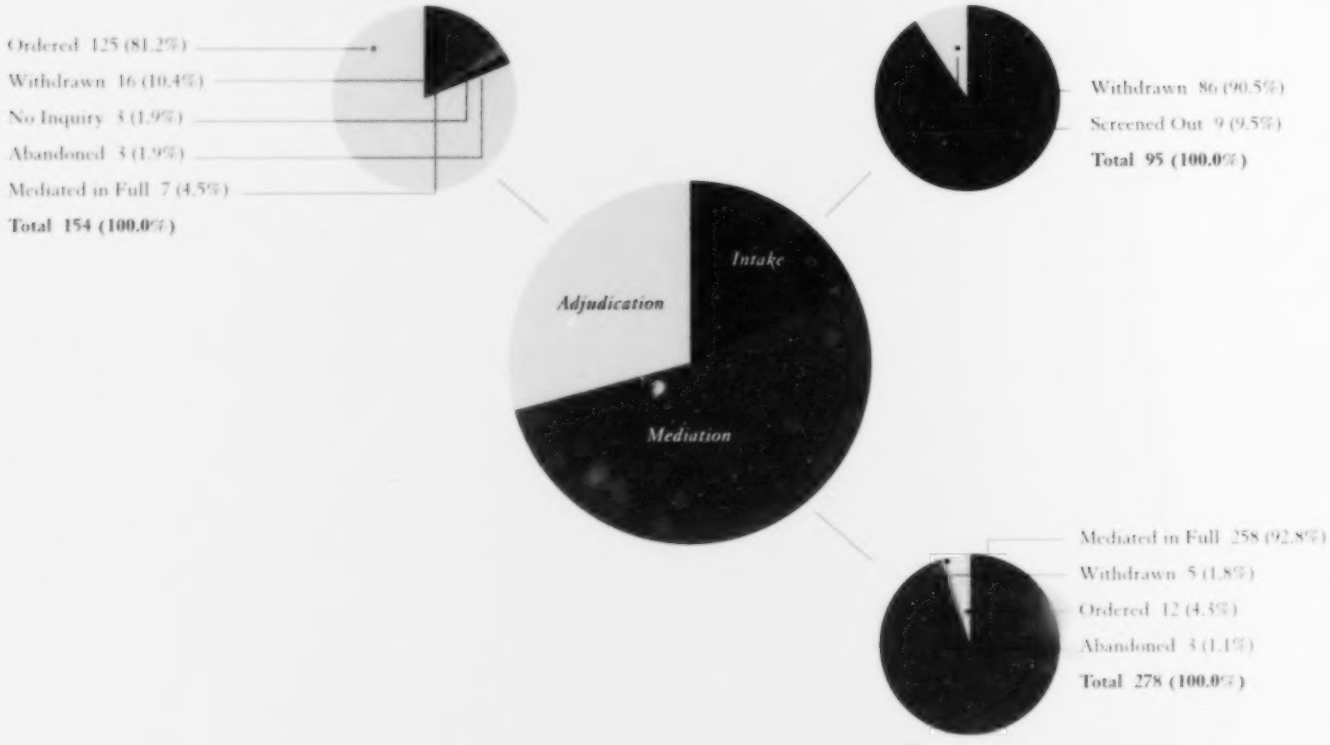
** One additional non-jurisdictional appeal was withdrawn in 2002.*

Outcome of Appeals Closed by Order

Head's Decision	*Provincial*	*%*	*Municipal*	*%*	*Total*	*%*
Upheld	24	31.2	18	31.6	42	31.3
Partly Upheld	36	46.8	11	19.3	47	35.1
Not Upheld	11	14.3	25	43.9	36	26.9
Other	6	7.8	3	5.3	9	6.7
Total	**77**	**100.0**	**57**	**100.0**	**134***	**100.0**

** In the three appeals closed by interim order, the head's decision was partly upheld in one and the other two had other outcomes.*

Outcome of Appeals by Stage Closed



Issues in General Records Appeals

	Provincial		*Municipal*		*Total*	
Exemptions	132	47.7	118	40.5	250	44.0
Exemptions with other Issues	19	6.9	28	9.6	47	8.3
Deemed Refusal	25	9.0	51	17.5	76	13.4
Reasonable Search	22	7.9	21	7.2	43	7.6
Interim Decision	9	3.2	11	3.8	20	3.5
Third Party	41	14.8	6	2.1	47	8.3
Fees	6	2.2	11	3.8	17	3.0
Time Extension	4	1.4	11	3.8	15	2.6
Inadequate Decision	3	1.1	2	0.7	5	0.9
Frivolous/vexatious/repeat			16	5.5	16	2.8
Transfer	1	0.4			1	0.2
Other	15	5.4	16	5.5	31	5.5
Total	**277**	**100.0**	**291**	**100.0**	**568***	**100.0**

** One additional non-jurisdictional appeal was related to other issues.*

Types of Appellants

	Provincial		*Municipal*		*Total*	
Academic/Researcher	4	1.4			4	0.7
Business	112	40.4	112	38.5	224	39.4
Government	14	5.1	1	0.3	15	2.6
Individual	80	28.9	139	47.8	219	38.6
Media	35	12.6	19	6.5	54	9.5
Association/Group	22	7.9	15	5.2	37	6.5
Politician	5	1.8	1	0.3	6	1.1
Union	5	1.8	4	1.4	9	1.6
Total	**277**	**100.0**	**291**	**100.0**	**568***	**100.0**

** An individual filed an additional non-jurisdictional appeal in 2002.*

The number of appeals closed by order exceeds the number of orders, since three appeals were closed by interim order. Appeals closed by interim order are not usually included in the number of appeals closed by order.
Overall, the IPC issued a total of 173 final orders — 133 pertaining to access to general records and 45 pertaining to access to personal information. Also, the IPC issued 25 interim orders — 17 pertaining to access to general records and 10 pertaining to access to personal information.

Outcome of Appeals Closed Other Than by Order

	Provincial	%	Municipal	%	Total	%
Screened out	4	2.2	5	2.4	9	2.3
Mediated in Full	132	72.5	133	64.3	265	68.1
Withdrawn	43	23.6	63	30.4	106	27.2
Abandoned	1	0.5	5	2.5	6	1.5
No inquiry	2	1.1	1	0.5	3	0.8
Total	**182**	**100.0**	**207**	**100.0**	**389***	**100.0**

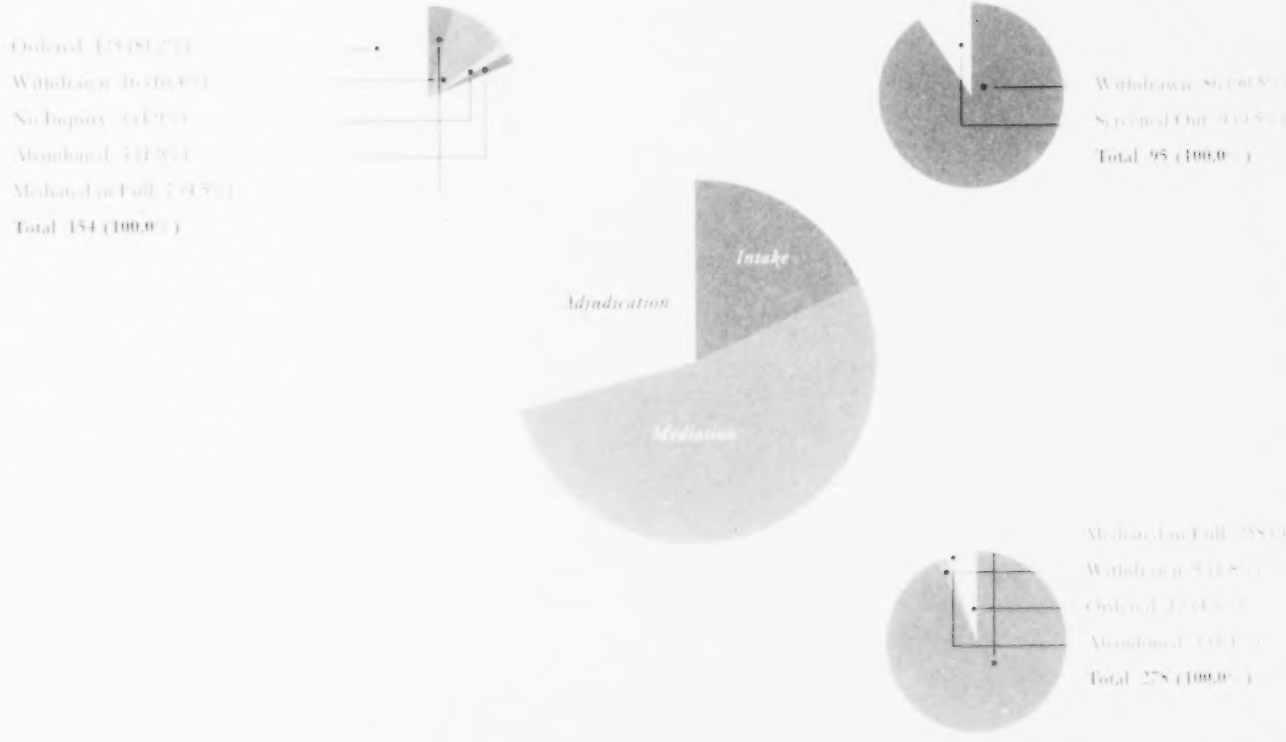
*One additional non-jurisdictional appeal was withdrawn in 2002.

Outcome of Appeals Closed by Order

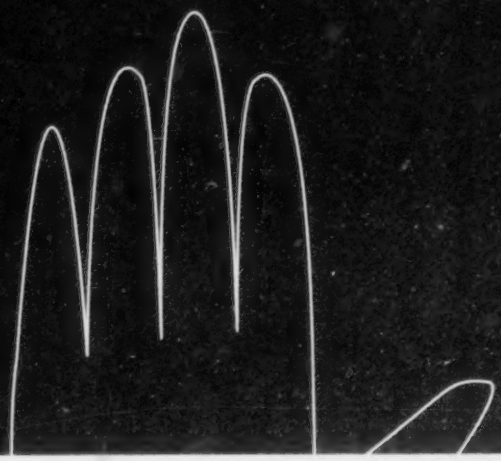
Heads' Decisions	Provincial	%	Municipal	%	Total	%
Upheld	24	31.2	18	31.6	42	31.3
Partly Upheld	36	46.8	11	19.3	47	35.1
Not Upheld	11	14.3	25	43.9	36	26.9
Other	6	7.8	3	5.3	9	6.7
Total	**77**	**100.0**	**57**	**100.0**	**134***	**100.0**

*In the three appeals closed by other orders, the heads' decision was partly upheld in one and the other two had other outcomes.

Outcome of Appeals by Stage Closed



PRIVACY



COMPLAINTS

To protect personal privacy, the provincial and municipal *Acts* establish rules that govern the collection, retention, use, disclosure, security, and disposal of personal information held by government organizations.

If you believe a provincial or municipal government organization has failed to comply with one of the *Acts* and that your privacy has been compromised as a result, you can file a complaint with the IPC. In the majority of cases, the IPC attempts to mediate a solution. The IPC may make formal recommendations to a government organization to amend its practices.

STATISTICAL OVERVIEW

Probing Privacy Complaints

Overall, 119 privacy complaints were opened in 2002, up 24 per cent from 2001. Fifty-nine complaints (50 per cent) were filed under the provincial *Act* and 53 (45 per cent) under the municipal *Act*. Seven non-jurisdictional complaints were filed in 2002. Of the 119 complaints opened, 102 (86 per cent) were initiated by individuals and 17 (14 per cent) by the Commissioner.

The IPC closed 99 privacy complaints in 2002. These complaints involved 109 issues. The disclosure of personal information was the most frequent issue, raised in 74 per cent of complaints. The collection of personal information was an issue in 19 per cent, while the use of personal information was an issue in five per cent. Twelve per cent of the complaints involved other issues, including security, retention, disposal, accuracy, access, personal information, notice of collection, and general privacy issues.

Eighty per cent of the **issues** raised in the privacy complaints were disposed of without the need for a formal finding. In the remaining cases, institutions were found to have complied with the *Acts* in nine per cent and partially complied in one per cent. Institutions were found not to have complied with the *Acts* in 10 per cent of the issues.

In responding to privacy complaints, the IPC emphasizes informal resolution. Consistent with this approach, the majority of complaints – 82 per cent – were closed without the issuance of a formal privacy complaint report. Fifty-eight per cent of complaints were closed during the intake stage. (Of these, nine per cent were screened out, five per cent were abandoned, 23 per cent were withdrawn, and 63 per cent were resolved informally.) Forty-two per cent of complaints proceeded to the investigation stage. Of the complaints closed during the investigation stage, two per cent were abandoned, 55 per cent were settled and 43 per cent were closed by issuing a report. Eighteen privacy complaint reports were issued in 2002. These reports contained 27 recommendations to government organizations.

PERSONAL INFORMATION APPEALS

The *Acts* also provide a right of access to and correction of your personal information. If you make a request under one of the *Acts* to a provincial or municipal government organization for your personal information, and you are not satisfied with the response, you can appeal the decision to the IPC. *Personal information appeals* can be filed concerning a refusal to provide access to your personal information, a refusal to correct your personal information, the amount of fees charged, the fact that the organization did not respond within the prescribed 30-day period, or other procedural aspects relating to a request. (Appeals relating to requests for access to *general* records are covered in the chapter entitled *Access*.)

Summary of Privacy Complaints - 2002

	2001 Privacy Complaints				2002 Privacy Complaints			
	Provincial	*Municipal*	*Non-jurisdictional*	*Total*	*Provincial*	*Municipal*	*Non-jurisdictional*	*Total*
Opened	55	36	5	96	61	53	5	119
Closed	61	28	6	95	54	38	7	99

Privacy Complaints by Type of Resolution

	Provincial	%	*Municipal*	%	*Non-jurisdictional*	%	*Total*	%
Screened out	3	5.9	2	5.3	2	28.6	5	5.1
Abandoned	3	5.9	1	2.6			4	4.0
Withdrawn	9	17.6	3	7.9	1	14.3	13	13.1
Settled	13	25.5	10	26.3			23	23.2
Informal Resolution	20	39.2	16	42.1			36	36.4
Report	3	5.9	6	15.8	9	57.1	18	18.2
Total	51	100.0	38	100.0	7	100.0	99	100.0

Privacy Complaints By Type of Resolution and Stage Closed

	Intake	%	*Investigation*	%	*Total*	%
Screened out	5	8.8			5	5.1
Abandoned	3	5.3	1	2.4	4	4.0
Withdrawn	13	22.8			13	13.1
Settled			23	54.8	23	23.2
Informal Resolution	36	63.2			36	36.4
Report			18	42.9	18	18.2
Total	57	100.0	42	100.0	99	100.0

Issues* in Privacy Complaints

	Provincial	%	*Municipal*	%	*Non-jurisdictional*	%	*Total*	%
Disclosure	39	68.4	28	62.2	6	85.7	73	67.0
Collection	8	14.0	11	24.4			19	17.4
Use	3	5.3	2	4.4			5	4.6
Security	2	3.5					2	1.8
Retention	1	1.8	1	2.2			2	1.8
Disposal	2	3.5					2	1.8
Accuracy			1	2.2	1	14.3	2	1.8
Access			1	2.2			1	0.9
Personal Information	1	1.8					1	0.9
Notice of Collection			1	2.2			1	0.9
General Privacy	1	1.8					1	0.9
Total	57	100.0	45	100.0	7	100.0	109	100.0

** The number of issues does not equal the number of complaints closed , as some complaints may involve more than one issue.*

Summary of Privacy Complaints - 2002

	2001 Privacy Complaints				2002 Privacy Complaints			
	Provincial	*Municipal*	*Non-jurisdictional*	*Total*	*Provincial*	*Municipal*	*Non-jurisdictional*	*Total*
Opened	55	36	5	96	59	53	7	119
Closed	61	28	6	95	54	38	7	99

Privacy Complaints by Type of Resolution

	Provincial	%	*Municipal*	%	*Non-jurisdictional*	%	*Total*	%
Screened out	1	1.9	2	5.3	2	28.6	5	5.1
Abandoned	3	5.6	1	2.6			4	4.0
Withdrawn	5	9.3	3	7.9	5	71.4	13	13.1
Settled	13	24.1	10	26.3			23	23.2
Informal Resolution	20	37.0	16	42.1			36	36.4
Report	12	22.2	6	15.8			18	18.2
Total	**54**	**100.0**	**38**	**100.0**	**7**	**100.0**	**99**	**100.0**

Privacy Complaints By Type of Resolution and Stage Closed

	Intake	%	*Investigation*	%	*Total*	%
Screened out	5	8.8			5	5.1
Abandoned	3	5.3	1	2.4	4	4.0
Withdrawn	13	22.8			13	13.1
Settled			23	54.8	23	23.2
Informal Resolution	36	63.2			36	36.4
Report			18	42.9	18	18.2
Total	**57**	**100.0**	**42**	**100.0**	**99**	**100.0**

Issues* in Privacy Complaints

	Provincial		*Municipal*		*Non-jurisdictional*		*Total*	
Disclosure	39	68.4	28	62.2	6	85.7	73	67.0
Collection	8	14.0	11	24.4			19	17.4
Use	3	5.3	2	4.4			5	4.6
Security	2	3.5					2	1.8
Retention	1	1.8	1	2.2			2	1.8
Disposal	2	3.5					2	1.8
Accuracy			1	2.2	1	14.3	2	1.8
Access			1	2.2			1	0.9
Personal Information	1	1.8					1	0.9
Notice of Collection			1	2.2			1	0.9
General Privacy	1	1.8					1	0.9
Total	**57**	**100.0**	**45**	**100.0**	**7**	**100.0**	**109**	**100.0**

** The number of issues does not equal the number of complaints closed, as some complaints raise more than one issue.*

When an appeal is received, the IPC first attempts to settle it informally. If all the issues cannot be resolved within a reasonable period of time, the IPC may conduct an inquiry and issue a binding order, which could include ordering the government organization to release all or part of the requested information.

STATISTICAL OVERVIEW

Overall, 919 appeals regarding access to *personal information* and *general records* were made to the IPC in 2002, a decrease of three per cent from 2001. The overall number of appeals closed in 2002 was 837, a decrease of 11 per cent from 2001. The decline in the number of appeals closed in 2002 is attributable in part to staffing issues at provincial ministries related to a public service strike. A number of appeals were also delayed due to an impending court decision.

ACCESS AND CORRECTION OF PERSONAL INFORMATION

Appeals Open

In 2002, 350 appeals regarding access or correction of *personal information* were made to the IPC. Of these, 145 (41 per cent) were filed under the provincial *Act* and 203 (58 per cent) under the municipal *Act*. Two non-jurisdictional personal information appeals were made.

Of the 145 provincial personal information appeals received, 117 (81 per cent) involved ministries and 28 (19 per cent) involved agencies. The Ministry of Public Safety and Security was involved in the largest number of personal information appeals (74), followed by the ministries of the Attorney General (11), Health and Long-Term Care (nine), Transportation (five), Consumer and Business Services (four), and Finance (four). The agencies with the highest number of personal information appeals included the Ontario Human Rights Commission (12), the Ontario Rental Housing Tribunal (three), the Ontario Civilian Commission on Police Services (two), the Ontario Lottery and Gaming Corporation (two), and the Workplace Safety and Insurance Board (two).

Of the 203 municipal personal information appeals received, 137 (67 per cent) involved the police, 42 (21 per cent) involved municipal corporations, and 15 (seven per cent) involved boards of education. Nine appeals (four per cent) involved other types of municipal institutions.

Fifty-three per cent of personal information appeals were related to exemptions claimed by institutions in refusing to grant access. An additional nine per cent concerned exemptions plus other issues. Eleven per cent of the appeals were the result of deemed refusals to provide access, in which the institution did not respond to the request within the time frame required by the *Acts*. In about 12 per cent of appeals, the issue was whether the institution had conducted a reasonable search for the records requested. Three per cent of appeals related to correction requests, while the remaining appeals were related to fees, time extensions or other issues.

In comparing where municipal and provincial appeals differed somewhat, provincial personal information appeals were more likely to involve exemptions, reasonableness of search, and frivolous or vexatious requests, while municipal personal information appeals were more likely to involve deemed refusals to provide access and time extensions.

Of the provincial institutions, the Ontario Human Rights Commission had the highest number of deemed refusals (four). The Workplace Safety and Insurance Board and the Attorney General each had two deemed refusal appeals. Of the municipal institutions, the Toronto Police Services Board had six deemed refusal appeals while the Ottawa Police Service had five. The Hamilton Police Service had four and the Sudbury Regional Police Service had two. No other provincial or municipal institution had more than one deemed refusal appeal pertaining to personal information.

Since personal information appeals, by definition, relate to a request for access and/or correction of one's own personal information, all appellants were categorized as individuals. Lawyers (100) or agents (seven) represented appellants in 31 per cent of the personal information appeals made in 2002.

In 2002, $12,156 in application fees for personal information appeals was paid to the IPC.

Number of Privacy Complaints Closed 1998-2002

	Provincial	*Municipal*	*Non-jurisdictional*	*Total*
1998	42	54		96
1999	40	48		88
2000	39	41	2	82
2001	61	28	6	95
2002	54	38	7	99

Outcome of Issues* in Privacy Complaints

	Provincial	%	*Municipal*	%	*Non-jurisdictional*	%	*Total*	%
Did not comply with the *Act*	7	12.3	4	8.9			11	10.1
Complied with the *Act*	4	7.0	6	13.3			10	9.2
Partially complied			1	2.2			1	0.9
Act does not apply	10	17.5			4	57.1	14	12.8
Resolved – Finding not necessary	34	59.6	34	75.6	3	42.9	71	65.1
Unable to conclude	2	3.5					2	1.8
Total	57	100.0	45	100.0	7	100.0	109	100.0

** The number of issues does not equal the number of complaints, as some complaints may involve more than one issue.*

Source of Complainants

	Provincial	%	*Municipal*	%	*Non-jurisdictional*	%	*Total*	%
Individual	41	75.9	34	89.5	7	100.0	82	82.8
IPC Commissioner Initiated	13	24.1	4	10.5			17	17.2
Total	54	100.0	38	100.0	7	100.0	99	100.0

Issues in Personal Information Appeals

	Provincial	%	*Municipal*	%	*Total*	%
Exemptions	78	53.8	107	52.7	185	53.2
Exemptions with other Issues	14	9.6	18	8.9	32	9.2
Deemed Refusal	13	9.0	25	12.3	38	10.9
Reasonable Search	22	15.2	20	9.9	42	12.1
Interim Decision	1	0.7			1	0.3
Third Party			1	0.5	1	0.3
Fees	2	1.4	2	1.0	4	1.1
Time extension			3	1.5	3	0.9
Inadequate Decision						
Frivolous/vexatious request	3	2.1	1	0.5	4	1.1
Transfer						
Correction	4	2.7	5	2.5	9	2.6
Other	8	5.5	21	10.3	29	8.3
Total	145	100.0	203	100.0	348*	100.0

** The issues in two additional non-jurisdictional personal information appeals were filed in 2002 were deemed refusal and other issues.*

Number of Privacy Complaints Closed 1998-2002

	Provincial	*Municipal*	*Non-jurisdictional*	*Total*
1998	42	54		96
1999	40	48		88
2000	39	41	2	82
2001	61	28	6	95
2002	54	38	7	99

Outcome of Issues* in Privacy Complaints

	Provincial	*%*	*Municipal*	*%*	*Non-jurisdictional*	*%*	*Total*	*%*
Did not comply with the Act	7	12.3	4	8.9			11	10.1
Complied with the Act	4	7.0	6	13.3			10	9.2
Partially complied			1	2.2			1	0.9
Act does not apply	10	17.5			4	57.1	14	12.8
Resolved – Finding not necessary	34	59.6	34	75.6	3	42.9	71	65.1
Unable to conclude	2	3.5					2	1.8
Total	**57**	**100.0**	**45**	**100.0**	**7**	**100.0**	**109**	**100.0**

** The number of issues does not equal the number of complaints, as some complaints may involve more than one issue.*

Source of Complainants

	Provincial	*%*	*Municipal*	*%*	*Non-jurisdictional*	*%*	*Total*	*%*
Individual	41	75.9	34	89.5	7	100.0	82	82.8
IPC Commissioner Initiated	13	24.1	4	10.5			17	17.2
Total	**54**	**100.0**	**38**	**100.0**	**7**	**100.0**	**99**	**100.0**

Issues in Personal Information Appeals

	Provincial	*%*	*Municipal*	*%*	*Total*	*%*
Exemptions	78	53.8	107	52.7	185	53.2
Exemptions with other Issues	14	9.6	18	8.9	32	9.2
Deemed Refusal	13	9.0	25	12.3	38	10.9
Reasonable Search	22	15.2	20	9.9	42	12.1
Interim Decision	1	0.7			1	0.3
Third Party			1	0.5	1	0.3
Fees	2	1.4	2	1.0	4	1.1
Time extension			3	1.5	3	0.9
Inadequate Decision						
Frivolous/vexatious request	3	2.1	1	0.5	4	1.1
Transfer						
Correction	4	2.7	5	2.5	9	2.6
Other	8	5.5	21	10.3	29	8.3
Total	**145**	**100.0**	**203**	**100.0**	**348***	**100.0**

** The issues in two additional non-jurisdictional personal information appeals were filed in 2002 were deemed refusal and other issues.*

Appeals Closed

The IPC closed 310 personal information appeals during 2002. Of these, 131 (42 per cent) concerned provincial institutions, while 177 (57 per cent) concerned municipal institutions. Two non-jurisdictional personal information appeals were closed in 2002.

Eighty-four per cent of personal information appeals were closed without the issuance of a formal order. Of the appeals closed by means other than an order, seven per cent were screened out, 56 per cent were mediated in full, 32 per cent were withdrawn, four per cent were abandoned, and one per cent dismissed without an inquiry. Of the 56 personal information appeals that went on to adjudication, 28 (50 per cent) had been mediated in part.

Of the 310 personal information appeals closed in 2002, 33 per cent were closed at the intake stage, 49 per cent at the mediation stage and 18 per cent at the adjudication stage.

Of the appeals closed at the intake stage, 75 per cent were withdrawn, 19 per cent were screened out and six per cent abandoned. Of the appeals closed at the mediation stage, 97 per cent were mediated in full, two per cent were withdrawn, and one per cent abandoned. Of the appeals closed during the adjudication stage, 88 per cent were closed by issuing a formal order, five per cent were withdrawn, four per cent were abandoned, and four per cent were dismissed without an inquiry.

In 2002, 16 per cent of personal information appeals were closed by issuing an order. The IPC issued a total of 45 final orders for personal information appeals – 13 provincial and 32 municipal[1]. In addition, the IPC issued six municipal interim orders.

In personal information appeals resolved by order, the decision of the head was upheld in 65 per cent and partly upheld in 25 per cent. The head's decision was not upheld in about only four per cent of the personal information records appeals closed by order. Six per cent of the orders issued in 2002 had other outcomes. In comparing the outcomes of provincial and municipal orders, the decision of the head was more likely to be upheld in provincial orders, and more likely to be partly upheld or not upheld in municipal orders.

[1] The number of appeals closed by order exceeds the number of orders, since one order closed two appeals, one appeal was closed by an interim order, and two appeals were closed by reconsideration orders. Appeals closed by interim orders and reconsideration orders are not usually included in the number of appeals closed by order.

Outcome of Appeals Closed by Order

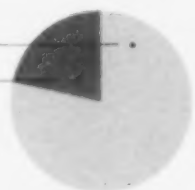
Municipal

Head's Decision

Upheld 21
Partly Upheld 9
Not Upheld 2
Other 3
Total 35

Provincial

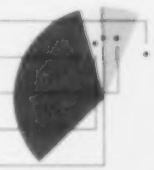
Head's Decision



Upheld 11
Partly Upheld 3
Not Upheld 0
Other 0
Total 14

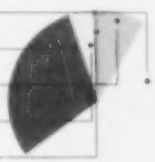
Outcome of Appeals Closed Other Than by Order

Municipal



Successfully Mediated 80
Withdrawn 47
Screened Out 9
Abandoned 5
No Inquiry 1
Total 142

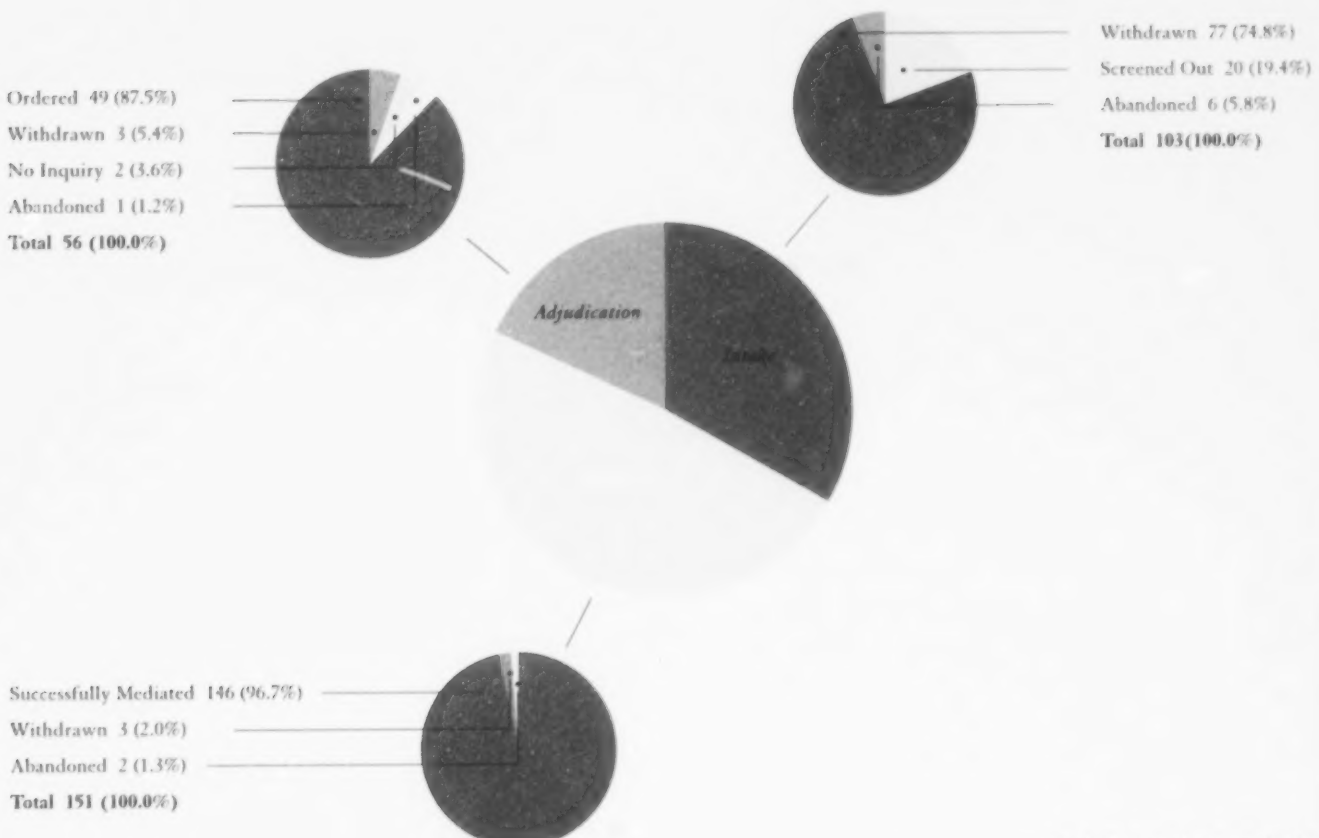
Provincial



Successfully Mediated 66
Withdrawn 35
Screened Out 10
Abandoned 5
No Inquiry 1
Total 117

**One additional non-jurisdictional appeal was screened out and another withdrawn in 2002*

Outcome of Appeals by Stage Closed



Outcome of Appeals Closed by Order

Municipal

Head's Decision

Upheld: 21

Partly Upheld: 9

Not Upheld: 2

Other: 5

Total: 35

Provincial

Head's Decision

Upheld: 11

Partly Upheld: 1

Not Upheld: 2

Other: 0

Total: 14

Outcome of Appeals Closed Other Than by Order

Municipal

Successfully Mediated: 80

Withdrawn: 47

Screened Out: 9

Abandoned: 5

No Inquiry: 1

Total: 142

Provincial

Successfully Mediated: 66

Withdrawn: 35

Screened Out: 10

Abandoned: 5

No Inquiry: 1

Total: 117

*One additional file was withdrawn after the decision was issued, and another was abandoned in 2006.

Outcome of Appeals by Stage Closed

Ordered: 49 (87.5%)

Withdrawn: 3 (5.4%)

No Inquiry: 2 (3.6%)

Abandoned: 1 (1.7%)

Total: 56 (100.0%)

Withdrawn: 77 (74.8%)

Screened Out: 20 (19.4%)

Abandoned: 6 (5.8%)

Total: 103 (100.0%)

Adjudication

Intake

Successfully Mediated: 146 (96.7%)

Withdrawn: 3 (2.0%)

Abandoned: 2 (1.3%)

Total: 151 (100.0%)

HIGH-PROFILE PRIVACY INCIDENTS

Some privacy incidents are more high profile than others because they attract significant media attention, touch on novel privacy issues or strike a particular chord with the public. In 2002, the IPC dealt with a number of high-profile privacy incidents involving allegations that personal information was inappropriately collected, used or disclosed. These included:

CHATHAM-KENT IT TRANSITION PILOT PROJECT (SPECIAL REPORT)

In early 2002, the IPC conducted a privacy review of the Chatham-Kent IT Transition Pilot Project. This project involves testing the use of information technology in a primary care environment. The ePhysican Project, a collaborative effort of the Ministry of Health and Long-Term Care, the Ontario Family Health Network and the Ontario Medical Association, is supporting the Chatham-Kent Project. Smart Systems for Health (SSH), an office within the Ministry of Health, is providing the infrastructure for the collection, storage, transmission and exchange of personal health information, including a secure server environment for hosting the personal health information of patients.

The IPC review was initiated after a newspaper cited allegations that there were serious privacy problems with the project. The IPC found that the major allegations were generally unfounded, but made a series of recommendations, including that SSH examine the feasibility of encrypting the personal health information databases stored on its server, and that it consider implementing further privacy-enhancing technologies, such as pseudonymizing tools and encrypted relational databases. The IPC also recommended that SSH conduct an end-to-end security test of the entire network, and that the ePhysician Project prepare a fact sheet on the Chatham-Kent Project that could be made available to patients.

UNIVERSITY HEALTH NETWORK (SPECIAL REPORT)

The University Health Network (UHN) is composed of three hospitals: Toronto General, Toronto Western and Princess Margaret. In May 2002, two well-known individuals checked into the UHN hospital system for treatment. When UHN ran audits on the two patients' electronic health records, it discovered that a small number of staff and medical residents had accessed the records of the two well-known patients, even though they did not appear to be involved in the care provided to these patients. Although the IPC does not have jurisdiction over the general hospital sector, UHN's chief executive officer requested that our office conduct a privacy assessment of his institution's response to the apparent breaches of patient privacy.

The IPC's assessment concluded that UHN was making considerable efforts to ensure that the privacy breaches that occurred do not happen again. For example, after discovering the apparent breaches of patient privacy, UHN conducted a series of swift inquiries and took disciplinary action against the individuals who were found to have inappropriately accessed the electronic patient records. It also asked an independent third party to conduct a review of its overall privacy practices, and enhanced the privacy training provided to staff and medical residents. The IPC recommended that UHN finalize and approve its draft privacy policy no later than October 1, 2002, and that UHN propose to the University of Toronto's Faculty of Medicine and other Ontario medical schools that the undergraduate curriculum for medical students include at least eight hours of lectures and workshops run by privacy specialists.

CITY OF HAMILTON (MC-020017-1)

The IPC was notified by the administrator/owner of a residential care home licensed by the City of Hamilton that, during the course of their inspections, city inspectors reviewed the medical and personal care plan records of the tenants and took notes from those records, all without notice to the residents and without their consent. The IPC was also contacted by a number of other individuals expressing the same concerns but regarding another facility. As a result, the IPC initiated a privacy investigation to determine whether the city's collection practices were in accordance with the privacy provisions of the *Act*.

The investigation concluded that the city's collection of the tenants' personal information was for the purpose of municipal bylaw enforcement activities and therefore in compliance with the *Act*. Further, since the collection of the tenants' personal information was used for the purpose of law enforcement, the *Act* permits the city to collect the information indirectly, through inspection of the tenants' files. However, the IPC found that the city had not provided the tenants with proper notice before collecting their personal information.

The city acknowledged that it had not complied with the notice provisions of the *Act* and agreed that it would ensure that operators of residential care facilities permanently post appropriate written notice in a highly visible location; provide letters to the operators of each of the city's licensed residential care facilities explaining the collection process; require operators to provide new tenants with a one-time written notice; and require operators to ensure that only those records and reports listed in the bylaw will be placed in the tenants' files for inspection by the city.

In addition, we recommended that the city provide proper notice to tenants within a reasonable period of time whenever it inspected a facility and collected their personal information, unless an exception in the *Act* applied. Finally, we recommended that the city review the specific types of information currently listed in the bylaw to ensure that all of the personal information listed is necessary for realizing the purpose of the bylaw.

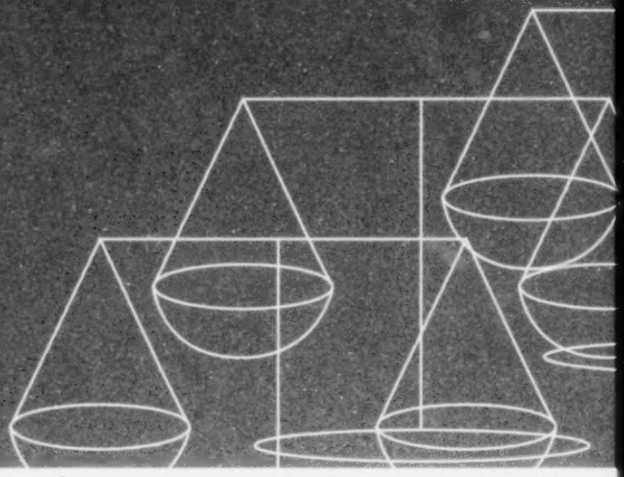
MINISTRY OF HEALTH AND LONG-TERM CARE (PC-020014-1)

At the request of the ministry, the IPC initiated a privacy investigation after Ontario Public Service Employee Union (OPSEU) members reported that they found papers scattered on the floors of rooms in the old Whitby Mental Health Centre (WMHC) that appeared to contain the personal information of both staff and patients. The records had apparently been left behind when the WMHC moved to its new location. OPSEU also claimed that there was reason to believe that additional ministry records containing personal information still remain in the building and other buildings located on the old WMHC site.

The IPC's investigation concluded that many of the records retrieved by OPSEU contained personal information, and that the disclosure and disposal of this personal information was not in compliance with the *Act*.

During the course of the investigation, the ministry informed the IPC that it was having difficulty obtaining the landlord's permission to enter the old WMHC site and search for and retrieve any additional records that may have been left behind. Accordingly, our first recommendation was that the ministry seek a court order to recover and secure any records remaining in the old WMHC site. We also recommended, subject to exceptional circumstances which may prevent notification, that the ministry notify all individuals whose personal information was contained in the records; that it establish an ongoing program of privacy and security training for its managers and staff; and that it review its policies and procedures for the protection and secure disposal of personal information.

JUDICIAL REVIEWS



In 2002, the courts rendered several decisions that finalized a number of issues of importance to freedom of information and privacy in Ontario. Several other issues are still outstanding, as the relevant decisions are the subject of applications for leave to appeal to higher courts.

(1) In the 2001 annual report, we described two Divisional Court rulings that upheld IPC orders on a "reasonableness" standard of review. These were challenged by the relevant ministries during 2002. In one case, which involved the Ministry of Health and Long-Term Care, the IPC had found that records listing the top 10 items billed by an unnamed physician did not contain personal information and must be disclosed. The ministry challenged the Divisional Court's ruling, but the Court of Appeal dismissed this appeal with costs to the requester, payable by the ministry. The higher court confirmed that the proper standard of review on applications for judicial review was reasonableness and that the decision that the affected person was not identifiable in the circumstances was reasonable.

(2) The second case of this nature that was referred to in our 2001 annual report involved Ontario's Public Guardian and Trustee. The IPC ordered it to disclose a listing of individuals who had died intestate, including their names, addresses, dates and places of death, and last occupations. In this case, the IPC found that disclosure would not cause pecuniary harm to affected persons, but would, in fact, benefit unknown heirs by making additional resources available to locate and assist them in claiming their inheritances. Accordingly, disclosure was not an unjustified invasion of privacy of the deceased individuals. This decision is now final as the ministry's application for leave to appeal to the Court of Appeal was dismissed in 2002.

(3) Closure has been brought to a jurisdictional issue that arose from the passage of the *Labour Relations and Employment Statute Law Amendment Act*, 1995 (Bill 7). That law amended the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act* (the *Acts*) in order to exclude a significant amount of employment and labour relations information from their coverage. The IPC's interpretation of the scope of the Bill 7 exclusionary amendments was upheld by the Divisional Court in 2000. However, in 2001, the Court of Appeal reversed the Divisional Court and overturned the IPC's rulings. The Court rejected the IPC's requirement that the government show a "current legal interest" in the subject matter of the record in order for the exclusions to apply. Consequently, records that the IPC had ruled were subject to the provincial *Act* were found by the Court of Appeal to be excluded. In 2002, the Supreme Court of Canada rejected the IPC's application for leave to appeal that decision, thereby entrenching a broad exclusion of employment and labour relations information from the *Acts*' coverage.

(4) In a case where the proper interpretation of an access request was at issue, the Divisional Court referred the matter back to the IPC, after deciding that the interpretation that the IPC had applied was too narrow and therefore unreasonable. Also of interest was the Court's consideration of the role of counsel for the IPC. The Court ruled that the IPC had standing to deal with the issue of the reasonableness of its decision and any questions of jurisdiction and, accordingly, did not limit the role of counsel.

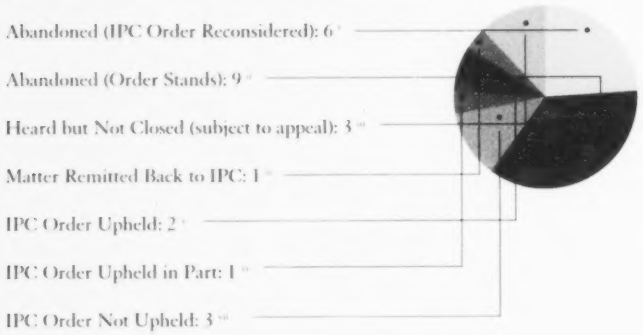
(5) In a case where the Toronto District School Board challenged the IPC's decision that it had jurisdiction to order the release of the board's representations, under section 41(13) of the municipal *Act*, the Divisional Court disagreed with the board. The Court confirmed the IPC's discretionary power to order the exchange of representations between the parties to appeals. Further, it strongly endorsed the guidelines developed by the IPC, which include confidentiality criteria that limit the exchange of representations in certain circumstances. This decision should promote greater co-operation with the IPC in its dealings with parties at the inquiry stage of appeals, because it confirms the importance and propriety of some degree of mutual disclosure of the arguments and evidence of all parties.

(6) The Divisional Court overturned the IPC's decision denying a media requester access to an electronic database containing the names and addresses of all contributors to candidates for the 1997 City of Toronto municipal election. A provision of the *Municipal Elections Act* required the city clerk to permit inspection and copying of the hardcopy paper records of candidates' financial reports containing this same information at the clerk's office during regular business hours.

The IPC held that the physical inspection scheme represented the extent of the city's obligation and that electronic disclosure was an unjustified invasion of personal privacy, because of the dangers mass electronic dissemination posed for unauthorized data-matching, profiling, identity theft, fraud, stalking and harassment. The Court disagreed, holding that disclosure of the entire database was necessary for public scrutiny of the election process.

Outstanding Judicial Reviews as of December 31, 2002: 27

Judicial Reviews Closed/Heard in 2002: 25


Abandoned (IPC Order Reconsidered): 6 [1]
Abandoned (Order Stands): 9 [2]
Heard but Not Closed (subject to appeal): 3 [3]
Matter Remitted Back to IPC: 1 [4]
IPC Order Upheld: 2 [5]
IPC Order Upheld in Part: 1 [6]
IPC Order Not Upheld: 3 [7]

[1] *Abandoned: IPC Order Reconsidered: MO-1447, PO-1696, PO-1718, PO-1782, PO-1797, PO-1863*
[2] *Abandoned: IPC Order Stands: MO-1548, PO-1961-I, PO-1896, PO-1936, PO-1973, PO-1974, PO-1975, PO-1976, PO-1977*
[3] *Heard but Not Closed: PO-1561/R-980036, PO-1721, MO-1366*
[4] *Matter Remitted Back to IPC: PO-1944*
[5] *IPC Order Upheld: PO-1736/PO-1790-R, PO-1880*
[6] *IPC Order Upheld in Part: MO-1521-I*
[7] *IPC Order Not Upheld: P-1618, P-1627, PO-1658*

OUTREACH PROGRAM

One of the key responsibilities of the IPC is to help educate the public about its access and privacy rights. The IPC reaches out across Ontario through a variety of programs it has created to answer specific questions and to generate interest in freedom of information and protection of privacy. A number of the outreach initiatives are based on a key premise: Teach the Teacher. The IPC focuses on making presentations to, and creating resources for, professionals in a number of key fields. One of the largest outreach initiatives is the school program. Other initiatives include programs involving the media, librarians, lawyers and provincial and municipal civil servants.

Each initiative is based on one or more of the five core elements in the outreach program: the *School program*, the *Speeches and Presentations program*, the *Publications program*, *Media Relations* and the *IPC Web site*.

SCHOOL PROGRAM

The IPC's highly successful school program, *What Students Need to Know About Freedom of Information and Protection of Privacy*, focuses on the grade where students first learn about government (Grade 5) and the compulsory Grade 10 civics program. The third element of the program makes additional resources available to Grade 11 and 12 teachers.

The special teacher's guide developed for Grade 5 social studies teachers by the IPC (with the help of curriculum specialists and classroom teachers) includes a number of lessons and background material for in-class discussion and study of why freedom of information and protection of privacy are important.

The Grade 10 teacher's guide, which includes a privacy quiz and material for a discussion on open government, provides the foundation for students to discuss why these two values are important and how these values are reflected in our relationship with government.

The Grade 11-12 teacher's guide, added at the suggestion of secondary school curriculum consultants, provides resources that teachers can use in such courses as Canadian law.

During 2002, the IPC made presentations about its school program to history and social studies consultants at seven school boards. And, IPC staff made more than 50 presentations to Grade 5 social studies classes as part of its *Ask an Expert* program.

All three guides – and brochures outlining each of them – are available on the IPC's Web site (www.ipc.on.ca/#education).

SPEECHES AND PRESENTATIONS

Commissioner Ann Cavoukian delivered 31 presentations in 2002. She was a keynote speaker at a number of major conferences and also made special presentations at universities and to various groups. Among these were presentations to the International Association of Business Communicators, the Conference Board of Canada and the Toronto Board of Trade. She was a keynote speaker at the International Association of Privacy Officers Conference and at the third annual Privacy and Security Workshop, *Privacy and Security: Totally Committed*, jointly sponsored by the IPC and the Centre for Applied Cryptographic Research at the University of Waterloo. Among her other presentations were those to Comdex/Canada 2002, Communications and Information Technology Ontario (CITO), and a privacy summit in Toronto organized by IBM's Tivoli division. Among her presentations to faculty

and students were presentations at McMaster University, the University of Toronto, the University of Waterloo and Dalhousie University.

Other segments of the IPC's speakers' program include:

- the *Reaching out to Ontario* program, under which a small team of speakers – led by the Commissioner or the Assistant Commissioner – visit a region of Ontario and make 10 to 12 presentations to various groups over one or two days. In 2002, IPC teams visited Barrie/Orillia, Mississauga, Sault Ste. Marie and Windsor;
- a university program, where members of the IPC's Legal and Policy Departments make presentations to faculty and students in business, technology and law programs;
- a general public speaking program, where IPC staff make presentations on access and privacy to various groups or organizations. Presentations in 2002 included speeches to a wide array of health organizations;
- a media program, where the IPC's Communications Co-ordinator addresses college and university journalism or electronic media classes, and workshops at newspapers and other media.

IPC PUBLICATIONS

The IPC released 15 print publications or major submissions in 2002, covering a wide spectrum of privacy and access topics. Among these was a paper that promotes redesigning security technologies to enhance privacy, rather than threaten it: *Security Technologies Enabling Privacy (STEPs): Time for a Paradigm Shift*. Two of the publications were major IPC reviews that dealt with the privacy of personal information stored in electronic format, including: *Privacy Assessment: The University Health Network's Response to Recent Breaches of Patient Privacy*, and *Privacy Review: Chatham-Kent IT Transition Pilot Project*. Some papers were aimed directly at government organizations, including: *Opening the Window to Government: How e-RD/AD Promotes Transparency, Accountability and Good Governance; Processing Voluminous Requests: A Best Practice for Institutions*; and *Exercising Discretion under section 38(b) of the Municipal Freedom of Information and Protection of Privacy Act*.

There were also two new papers in the IPC's popular *If you wanted to know...*series, one of which looks at the most frequently asked questions the IPC receives; while the other deals with privacy issues related to libraries. As well, the IPC produced the first two issues of *Mediation Works!*, an e-newsletter created by the Tribunal Services Department to promote mediation to access and privacy professionals in the public sector.

During 2002, 13,731 copies of IPC publications were distributed at conferences or mailed out in response to requests.

A full list of the print publications released by the IPC in 2002 follows this *Outreach* report.

MEDIA RELATIONS

As part of its pro-active media relations program, the IPC tries to raise the media's consciousness about access and privacy issues. It does this through meetings with the editorial boards of newspapers (there were four such meetings in 2002), presentations to newsrooms and media students, through on-site interviews at television and radio stations during *Reaching Out to Ontario* initiatives, and through news releases and publications.

The IPC is also frequently contacted by the media seeking interviews, or with questions about freedom of information or privacy issues or processes. The Commissioner is the official spokesperson for the IPC and accepts as many requests for interviews as her schedule allows. During 2002, the Commissioner gave 57 interviews – to Ontario, Canadian and international newspaper, TV, radio, magazine and online reporters. Overall, the IPC assisted more than 120 reporters seeking interviews, basic facts or background information.

IPC WEB SITE

Another main element of the Outreach program is the IPC's Web site, which offers a wide range of information about access and privacy issues and legislation. All IPC publications and orders are available on the site. You will find answers to common questions about access or privacy – and about the IPC – in reader-friendly brochures. Plus, there are copies of the two *Acts*, educational material, selected speeches and other presentations by IPC staff, news releases, forms, and much more. One section offers links to other Web sites that focus on access and/or privacy.

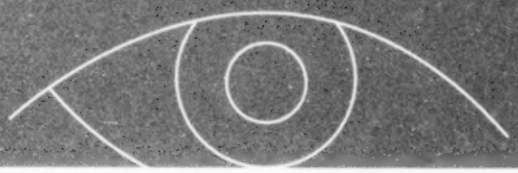
For more detailed information about the IPC's Web site (www.ipc.on.ca), see the chapter that follows *Publications*.

FACE TO FACE

To get IPC publications and other information into the hands of Ontarians, the IPC sets up an information table at a number of conferences. These range from public meetings or conferences organized by the IPC itself (such as the annual Privacy and Security Workshop the IPC co-sponsors with the University of Waterloo, which attracted an overflow crowd last November from all over North America) or has speakers at (such as Management Board's annual access and privacy conference), to major conferences of organizations that the IPC wants to reach. For example, in 2002 the IPC set up information tables and handed out publications (and buttons to those who scored well in the IPC's access and privacy quizzes) at the annual conference of the Association of Municipalities of Ontario and the combined conference of the Rural Ontario Municipalities and the Ontario Good Roads Association.

Among other highly successful events during 2002 was a continuing legal education program, *Open Government: Freedom of Information Law in Ontario*, co-sponsored by the IPC, the Ministry of the Attorney General and the Ontario Bar Association. The keynote speaker was the Honourable Sidney Linden, who was Ontario's first Information and Privacy Commissioner.

PUBLICATIONS



The IPC's publications program is one of the primary ways it provides information about specific access or privacy issues to government organizations and the public. As well as its annual report and two newsletters, the IPC produces a number of policy papers, brochures and specialty publications each year.

The print publications and major submissions released in 2002, in order of publication, included:

- *Exercising Discretion under section 38(b) of the Municipal Freedom of Information and Protection of Privacy Act*, which provides institutions with an outline of what constitutes a valid exercise of discretion in the application of section 38 (b), and some practical tips on how to properly exercise discretion when dealing with a specific category of records. It was co-produced by the Toronto Police Service and the IPC;
- *Submission to the Ministry of Consumer and Commercial Relations in Response to A Consultation Paper: Proposed Ontario Privacy Act;*
- *If you wanted to know... What are the 15 most frequently asked questions the Information and Privacy Commissioner receives?;*
- The Spring 2002 edition of the IPC's bi-annual newsletter, *IPC Perspectives;*
- *Privacy Review: Chatham-Kent IT Transition Pilot Project*, a review by the IPC of this online health-information pilot project;
- *Security Technologies Enabling Privacy (STEPs): Time for a Paradigm Shift*, discusses how many security technologies can be redesigned to minimize or eliminate their privacy invasive features, yet remain highly effective tools;
- *Opening the Window to Government: How e-RD/AD Promotes Transparency, Accountability and Good Governance*, which outlines how governments can use electronic routine disclosure and active dissemination techniques to further the goals of open government;
- Commissioner Ann Cavoukian's annual report for 2001;
- *Submission to the Standing Committee on General Government regarding Bill 58, An Act to amend certain statutes in relation to the energy sector;*
- *Privacy Assessment: The University Health Network's Response to Recent Breaches of Patient Privacy*. This IPC report reviews the UHN's efforts to ensure that the inappropriate access of electronic patient records that occurred in May 2002 would not reoccur;
- *Processing Voluminous Requests: A Best Practice for Institutions* provides strategies to assist institutions in processing voluminous requests. This paper was a joint project of the IPC and the Information and Privacy Unit of the Ministry of Natural Resources;
- *Privacy and Digital Rights Management (DRM): An Oxymoron* outlines the factors that gave rise to DRM technology, the impact of DRM on the privacy rights of consumers, and proposes how to embed privacy into DRM technologies. It also offers privacy tips to consumers;
- The Fall 2002 edition of *IPC Perspectives*;
- *If you wanted to know... What are the privacy responsibilities of public libraries?* the latest in the IPC's *If you wanted to know...* series, looks at some common questions library users and library staff may have about privacy rights and what libraries can do to protect privacy;
- *Concerns and Recommendations Regarding Government Public Key Infrastructures for Citizens* examines the potential impact of PKI on the protection of personal privacy and makes recommendations for officials establishing such systems.

IPC publications are available on the IPC's Web site (www.ipc.on.ca) or by calling the Communications Department at 416-326-3333 or 1-800-387-0073.

WEB SITE

The IPC's Web site, (www.ipc.on.ca) is an electronic library that offers extensive resources on freedom of information and privacy.

It serves a variety of audiences – from professionals in the privacy or freedom of information sectors to teachers, from concerned individuals to students, from human resources professionals to reporters, from researchers to lawyers.

The site was recently redesigned to make it even more user friendly. The IPC continually reviews and improves the functionality of the Web site and feedback from users is important.

One of the new features is a topic section organized by subject, to make it easier for visitors to find related information on a major topic, such as identity theft. This section can be accessed through the new *Topics* link, which also includes a *Hot Topics* section. Another new feature is a location bar that automatically updates as you move through sections, so you always know where you are at on the Web site at any time.

The IPC added a wide variety of new information resources to the site in 2002, including 17 new publications, copies of a number of speeches or presentations made by IPC staff, all the orders that were issued in 2002, privacy investigation reports and a wide array of other information. A new IPC poster, entitled *7 Essential Steps for Designing Privacy into Technology*, takes you through the essential steps for building privacy into technology. (You will find this in the *Resources* section.)

WEB INFORMATION RESOURCES

In 2002, approximately 250,000 people visited the Web site and viewed nearly one-million pages of information. Some visitors did their research online, others downloaded a variety of IPC publications, reports or forms. There were 108,919 separate downloads last year.

Consistent with the IPC's mandate to promote routine disclosure, all IPC orders are posted to the Web site. The *Orders, Complaint Reports and Judicial Reviews* section is always one of the most accessed portions of the site. Links to newly posted orders can also be found on the *What's New* page.

For those downloading material, the most popular publication last year was the *Privacy Diagnostic Tool*. It was downloaded 5,288 times (4.85 per cent of all resources downloaded).

Other popular resources in 2002 included *Consumer Biometric Applications: A Discussion Paper; Workplace Privacy: A Consultation Paper;* the IPC's *Submission to the Ministry of Consumer and Business Services: Consultation Draft of the Privacy of Personal Information Act, 2002*, and the IPC's three teachers' guides.

The IPC is constantly updating and improving the resources available on its Web site. Questions and feedback are always welcome. Please address comments to: info@ipc.on.ca.

MONITORING LEGISLATION AND PROGRAMS

Part of the mandate of the IPC under the *Freedom of Information and Protection of Privacy Act* is to offer comment on the privacy protection and access implications of proposed government legislative schemes or government programs. We take this mandate very seriously and were pleased with the extent to which ministries sought our advice during 2002. The following list provides an overview of the work done by the IPC during 2002 that focused on government activities.

Ministry Consultations:

- Consumer and Business Services: Draft *Privacy of Personal Information Act*, 2002; Trusted Registration Policy; Identity Theft; Electronic Service Delivery implementation;
- Ministry of Transportation: Uninsured Vehicle Project; Ignition Interlock Program; Authorized Requester Program;
- Ministry of the Attorney General: Regulation under the *Remedies for Organized Crime and Other Unlawful Activities Act*; Amendments to the *Public Guardian and Trustee Act* and the *Crown Administration of Estates Act*;
- Ministry of Finance: Indirect collection for Ontario Savings Bonds; Province of Ontario Savings Office privatization;
- Community and Family Services: Mandatory drug treatment for social assistance recipients; Family Responsibility Office policies and procedures; Bill 77, proposed *Adoption Disclosure Statute Law Amendment Act*;
- Ministry of Health and Long-Term Care: PIA for the Health Services Payment Analysis System of OHIP; Postscript issues arising from Order PO 1881; Smart Systems for Health, E-Physician Project; Healthy Babies, Healthy Children project;
- Ministry of Public Safety and Security: Electronic Surveillance Program; Ontario Provincial Police facility design; Bill 148, the *Emergency Readiness Act*, 2002;
- Ontario Lottery and Gaming Commission: lottery related privacy issues;
- Ministry of the Environment: Environet PIAs;
- Management Board of Cabinet: Bill 216, *Accountability for Expenses Act*; Information Security Classification Policy; Employee Security Screening Policy;

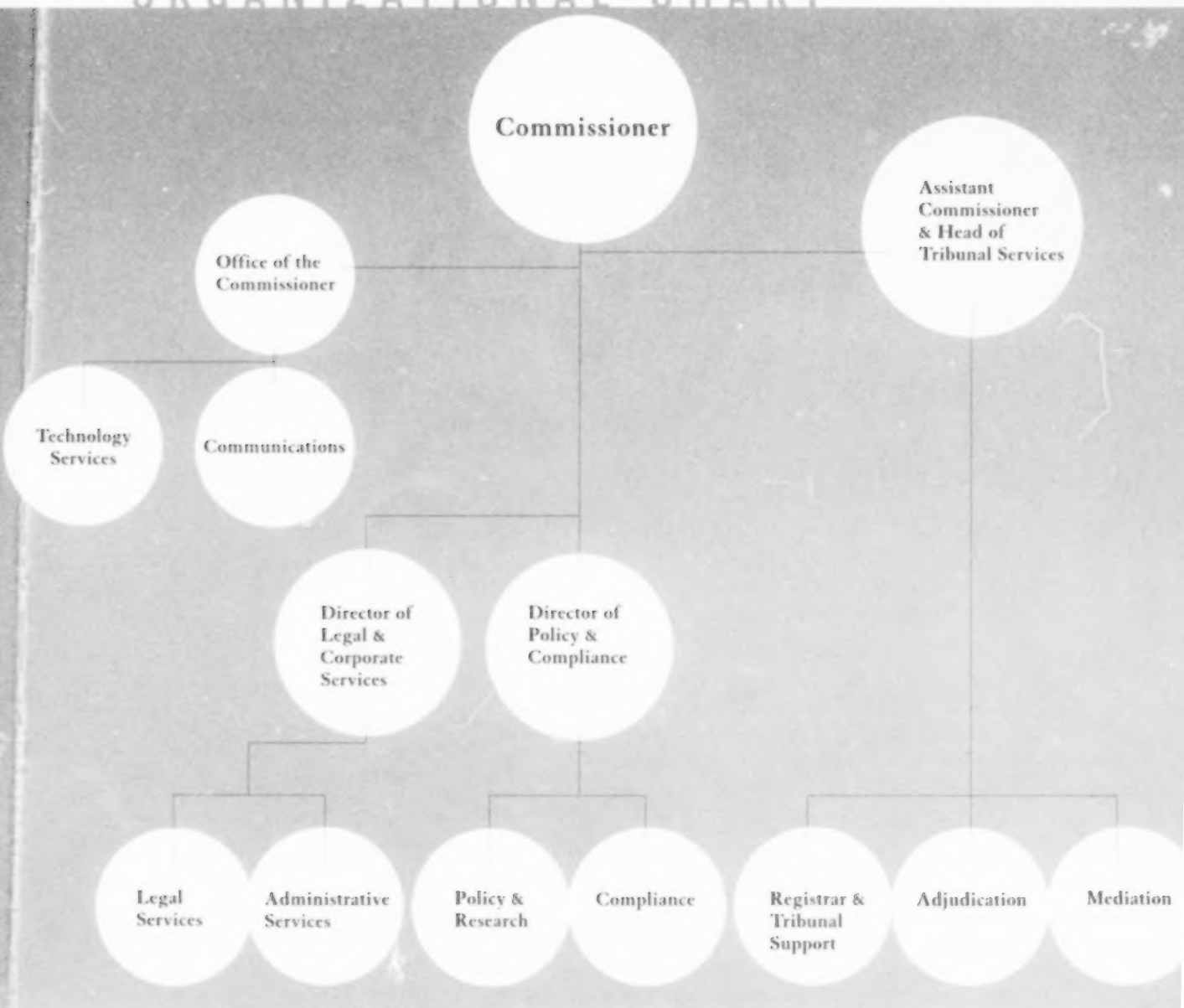
Municipalities:

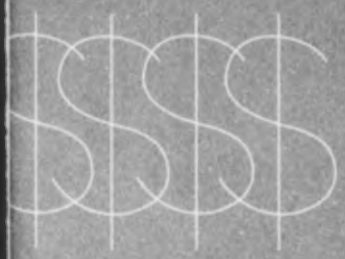
- City of Hamilton: video surveillance cameras;

Submissions:

- Submission to the Ministry of Consumer and Business Services in response to a Consultation Draft of the *Privacy of Personal Information Act*, 2002;
- Submission to the federal Minister of Transportation on Bill C-22, the proposed *Public Safety Act*;
- Submissions to the federal Minister of National Revenue regarding the Canada Customs and Revenue Agency's plans to retain personal information;
- Submission to the Standing Committee on General Government regarding Bill 58; *An Act to Amend Certain Statutes in Relation to the Energy Sector*;
- Submission to the federal Minister of Justice and Attorney General regarding the "Lawful Access" proposals.

ORGANIZATIONAL CHART





FINANCIAL STATEMENT

	2002-2003 Estimates $	2001-2002 Estimates $	2001-2002 Actual $
Salaries and wages	5,154,500	5,154,500	5,063,391
Employee benefits	1,005,100	799,000	744,018
Transportation and Communications	180,400	162,300	168,706
Services	840,200	860,500	888,937
Supplies and Equipment	275,400	273,200	221,974
Total	**7,455,600**	**7,249,500**	**7,087,026**

Note: The IPC's fiscal year begins April 1 and ends March 31.

The financial administration of the IPC is audited on an annual basis by the Provincial Auditor.

APPENDIX I

As required by the *Public Sector Salary Disclosure Act*, 1996, the following chart shows which IPC employees received more than $100,000 in salary and benefits for the calendar year ending December 31, 2002.

Name	Position	Salary Paid	Taxable Benefits
Cavoukian, Ann	Commissioner	$ 171,343.96	$ 366.88
Mitchinson, Tom	Assistant Commissioner	$ 164,715.20	$ 350.92
Anderson, Ken	Director, Legal Services	$ 149,718.46	$ 339.54
Beamish, Brian	Director, Policy & Compliance	$ 117,675.22	$ 221.16
Challis, William	General Counsel	$ 166,002.91	$ 352.14
Goldstein, Judith	Legal Counsel	$ 131,547.52	$ 272.71
Goodis, David	Senior Adjudicator & Manager of Adjudication	$ 140,439.83	$ 284.09
Higgins, John	Legal Counsel	$ 141,063.56	$ 293.94
O'Donoghue, Mary	Manager, Legal Services	$ 142,742.80	$ 289.19
Swaigen, John	Legal Counsel	$ 138,264.08	$ 294.48

INFORMATION AND PRIVACY COMMISSIONER/ONTARIO

80 Bloor Street West
Suite 1700
Toronto, Ontario
M5S 2V1

Tel: **416 326 3333**
Fax: **416 325 9195**
Web Site: **www.ipc.on.ca**

1 800 387 0073
TTY: 416 325 7539